

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7156 of 2022

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M/s Sanjeet Traders a Proprietorship Firm having its Office at Mahila College Road, Madhubani, through its Proprietor Sanjeet Kumar aged about 45 Years (Male, Son of Late Gokul Sah Resident of Vilalge Ward No1, Laheriyaganj PO and P.S. Madhubani, District Madhubani ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
2. The Principal Secretary, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
3. The Agriculture Director, Department of Agriculture, Government of Bihar, Vikas Bhawan, Patna 800015.
4. The District Agriculture Officer, Madhubani.
5. The District Agriculture Co-Ordinator, Madhubani.
6. The Collector Cum District Magistrate, Madhubani.
7. The Block Agriculture Officer, Rahika. ... Respondents

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Appearance :

For the Petitioner : Mr.Suraj Samdarshi, Adv.
For the Respondents : Mr.Aashok Kumar Pathak, AC to GP XXI

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

13 07-07-2023 Heard the parties.

This writ petition has been filed for the following
reliefs :

(i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the proceedings of Supply Confiscation Case no. 170/2022 pending in the court of Collector, Madhubani, initiated on the basis of letter no. 354 dated 24.03.2022 issued by District Agriculture Officer, Madhubani for confiscation of fertiliser seized from the petitioner in connection with Madhubani Town P.S. Case No. 382 of 2021 registered on 01.12.2021.



(ii) To issue an appropriate writ, order or direction in the nature of certiorari for quashing letter no. 698 dated 22.04.2022 issued by the Respondent District Agriculture Officer, Madhubani directing the Block Agriculture Officer, Rahika to sell the seized fertiliser belonging to the petitioner, amongst the farmers and deposit the proceeds thereof.

(iii) To issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondents to forthwith release the fertilisers seized from the premises of the petitioner in connection with Madhubani Town P.S. Case No. 382/2021.

(iv) This Hon'ble Court may adjudicate and hold that after this Hon'ble Court in CWJC No. 19439/2021 has quashed the order of cancellation of fertiliser license of the petitioner, the Respondents should not have initiated confiscation proceeding for confiscation of the seized fertiliser.

(v) This Hon'ble Court may adjudicate and hold that the action of Respondents in initiating confiscation proceeding in relation to the fertiliser seized from the premises of the petitioner is bad in the eyes of law on account of the fact that the petitioner has not been given the statutory period of 30 days to dispose of the fertiliser already in stock.

(vi) This Hon'ble Court may further adjudicate and hold that the action of the Respondents is a completely arbitrary exercise of authority/power vested in the Respondents.

(vii) To grant any other relief or reliefs for which the



petitioner is found entitled in the facts and circumstances of the case.

It is a case of the petitioner that he has obtained work license for carrying whole sale of the fertilizer under the Fertilizer (Control) Order, 1985, and the same was renewed subsequently and the premises of the petitioner was inspected on 27.10.2021 and a black marketing case was registered against the petitioner. The petitioner was issued a show cause notice by the District Agriculture Officer, Madhubani, vide letter no. 1970, dated 28.10.2021, and the license of the petitioner was suspended. Even though the petitioner has submitted a reply to the show cause on 29.10.2021, the same was taken into account. Thereafter the petitioner has received a letter, dated 30.10.2021, bearing memo no. 1996 issued by the District Agriculture Officer in which it was mentioned that the petitioner's godown was sealed and the petitioner was directed to be present for preparation of the seizure list. Thereafter, vide letter, dated 08.11.2021, bearing memo no. 2078, the District Agriculture Officer has cancelled the license of the whole sale fertilizer.

It is a specific case of the petitioner that the authorities have not followed the procedure contemplated under the Fertilizer (Control) Order, 1985. More specifically Clause 31 of the Fertilizer (Control) Order, 1985, states that before



sealing the premises of a license holder, the authorities should grant a time of 30 days to enable the license holder to clear the stocks, therefore, the learned counsel for the petitioner states that the seizure made by the authorities is one without jurisdiction contrary to the provision of the Fertilizer (Control) Order, 1985, and prayed this Hon'ble Court permit the petitioner to sell the goods.

Per contra, the learned counsel appearing for the respondents has stated that the seizure was made at two places, i.e., one at the godown of the petitioner and another at the hotel Gokul Raj, but, inadvertently by mistake the stock which was seized at both the points was clubbed together. More over, the learned counsel for the respondents has fairly stated that the procedure prescribed under Clause 31 of the Fertilizer (Control) Order, 1985, has not been followed. Learned counsel has stated that the seizure of the stock made at the hotel may not be clubbed together and benefit of Clause 31 of the Fertilizer (Control) Order, 1985, may be permitted to be given the petitioner.

Having regard to the above made submissions of the both the learned counsel, this Court is of the opinion that the ends of justice would be met if the petitioner is permitted is



permitted to sell the stock which has been seized from the godown of the petitioner as contemplated under Clause 31 of the Fertilizer (Control) Order, 1985. The authority shall segregate the stocks which are seized from the godown and the hotel of the petitioner and hand over the stock which has been seized from the godown of the petitioner to the petitioner to enable him to sell the same. The authorities shall follow the procedure prescribed under the Clause 31 of the Fertilizer (Control) Order, 1985, before seizing any left over stock. The authorities shall hand over the stock which has been seized from the godown of the petitioner within a period of two weeks from the date of receipt of a copy of this order. It is made clear that this Court has not gone into the merits and demerits of the case and the petitioner is free to agitate his right before the appropriate forum where the matters are pending.

With these observations, this writ petition is **allowed**.

(A. Abhishek Reddy , J)

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