

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7894 of 2017

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Dinesh Singh Son of Durga Singh Resident of Bakhri Bazar, P.S. Bakhri
Bazar, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary-cum-Commissioner,
Department of Food & Consumer Protection, Government of Bihar, Patna
2. The District Magistrate-cum-Collector, District- Begusarai.
3. The Sub Divisional Officer, Bakhri, District Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.D. Sanjay, Sr. Adv., Mrs. Priya Gupta, Adv., Mr. Mohit Agarwal, Adv., Miss. Sushmita Mishra, Adv., Mr. Anand Kumar, Adv., Mr. Rahul Kumar, Adv.
For the State	:	Mr. Bijoy Kumar Sinha, AC to AAG-5

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

4 27-03-2023

1. Heard the parties.

2. After some arguments, Mr. S.D. Sanjay, learned Senior Counsel for the petitioner submits that there are factual errors in the order dated 16.09.2015, passed by the District Magistrate, Begusarai. He submits that there were Cash Memos, Transportation Challans and weighing receipts with the petitioner, which were not taken on record by the District Magistrate. He has produced them before the Court in rejoinder.

3. Learned counsel for the petitioner submits that the rice, which was seized from the two Trucks, belongs to the



petitioner and there were no reason to confiscate the same. There was no control order issued by the Bihar Government with regard to the rice. Merely because rice is an essential commodity, would not mean that any person, who is trading in rice, should be made to suffer and the rice, even if packed in Gunny bags and Jute bags, having name of F.C.I. on them, should be treated as rice belonging to the State or its authorities. More so, as there is no complaint with regard to such rice having been stolen or black-marketed from any particular P.D.S. shop, nor there is any claim from any other person.

4. This Court notices that the Collector has not accepted the contentions of the petitioner on the ground that they were not able to satisfy that rice belongs to them, while the rice bags mentioned it to be of F.C.I. procured from Government of Punjab. It is also stated in their counter affidavit that the rice was meant for subsidized distribution through P.D.S. shops. However, no document has been produced by the respondents in their counter affidavit in support of their claim to the said rice. Thus, this Court is satisfied that both the parties have not adduced evidence in support of their claim. The matter, therefore, requires to be examined.

5. Considering that the facts were not examined by the



Collector, it is deemed appropriate to remit the matter back to the Collector concerned, who shall allow both the parties to adduce evidence in support of their claim and accordingly pass fresh orders relating to confiscation. If any of the parties are aggrieved thereto, they would also free to file an appeal.

6. The concerned Collector shall now decide the Confiscation Proceeding afresh without advertng to his earlier order positively within a period of four months henceforth.

7. The order dated 16.09.2015 passed by the Collector stands quashed and set aside however, subject to final decision afresh.

8. With the said direction this writ petition is disposed of.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 47

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