

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

WPA 728 of 2023

Essels Funds Management (P) Ltd.
-versus-
Senior Joint Commissioner & Ors.

Mr. Vinay Shraff, Adv.
Mr. Himagshu Kr. Ray, Adv.
Ms. Priya Sarah Paul, Adv.
Mr. Sandip Guha Roy, Adv.
...for the petitioner.

Mr. Bikramaditya Ghosh, Adv.
Ms. Bedashruti Bose, Adv.
...for State.

The petitioner has filed the present writ application praying for a direction upon the respondent authorities for release of the detained goods of value of Rs. 1,95,430/- Rs. 1465721/-, Rs. 130287/-, Rs. 108466/- and Rs. 135583 vide Invoice No. EFMPL/1734/22-23, EFMPL/1749/22-23, EFMPL/1900/22-23, EFMPL/1924/22-23, EFMPL/1926/22-23 and EFMPL/1925/22-23.

Mr. Vinay Shraff, learned Advocate representing the petitioner submits that the petitioner had booked six consignments of

tea vide consignment note no. 401220, 401317, 403286, 204179, 404175 and 404180 respectively in vehicle no. RJ18GB0043 to be delivered at Delhi. The consignment was being being transported vide E-way bill no. 861281471861, 821281473882, 8312782158 10, 841279567784, 831279570635 and 811279569455 respectively. On 18th January, 2023 the respondent no. 3 detained the goods and vehicle. On 16th February, 2023 the petitioner requested the respondent no. 1 to release his goods. On 2nd March, 2023, the petitioner received a memo from respondent no. 2 and informed that the respondent no. 4 had requested to hand over all goods and documents regarding the vehicle and the cargo found in the vehicle. Now, the petitioner has filed the present writ application. The respondent no. 4, i.e. the Directorate of Revenue Intelligence had filed affidavit-in-opposition wherein it is stated that during enquiry it was ascertained from the transporter that the poppy seeds were booked in the name of Ramdana seeds by a person of Nepal under invoice and E-way Bill of the firm named M/s. Jiyarul Trading of Deshbandhupara, Falakata, District-

Alipurduar. The goods were delivered to their godown for onward delivery at Delhi. In the statement the authorized signatory informed that they were completely unaware of the fact that the poppy seeds were being sent in the name of Ramdana seeds and none of the consignors of tea were aware of the fact that the consignment declared to be Ramdana seeds were loaded in the vehicle. In the said affidavit it is further mentioned that preliminary investigation points to the facts that poppy seeds have been smuggled from Nepal and a bogus invoice declaring the goods as Ramdana has been used to show the goods as bona fide. Further, the Bureau of Investigation authorities have intimated that the supplier has been found to be non-existent. It is further mentioned in the affidavit that the tea is perishable in nature and no involvement of the supplier of the tea with the smuggled poppy seeds have been ascertained and the Directorate of Revenue Intelligence has no objection, if the consignment of the petitioner is released.

Learned Counsel for the respondent no. 4 submits that on receipt of the information, the respondent no. 4 has

requested the State Authorities for inspection of the seized property and, accordingly, during the investigation it has not been ascertained as to whether poppy seeds are the smuggled items or not. The vehicle is carrying the tea consignment which is perishable in nature and, as such, they have no objection for release of the vehicle and the tea consignment.

Learned Counsel for the respondent no. 4 further submits that as the consignment has been seized by the State authority and, as such, the State authorities have to take appropriate steps with regard to the poppy seeds.

Mr. Ghosh, learned Advocate appearing for the State Authorities submits that as poppy seeds have been found in the vehicle and further investigation is to be carried out with regard to the ownership of the poppy seeds and, as such, if the tea is released in favour of the petitioner, the authorities may be given liberty to take appropriate steps for further investigation to ascertain with regard to the poppy seeds.

Considered the submissions made by the Counsel for the respective parties, this

Court finds that no purpose would be served by keeping the writ petition pending. Accordingly, the writ petition is disposed of by directing the respondent no. 3 to take appropriate steps for release of the tea consignment in favour of the petitioner in accordance with law if there is no impediment for release tea consignment within a period of one week from the date of receipt of the copy of the order subject to furnishing an undertaking before the authority, as and when, if required, the petitioner will appear before the authority for enquiry/investigation.

It is made clear that the authorities, i.e. the State Authorities as well as respondent no.4 shall be at liberty to carry out further investigation with regard to the poppy seeds and it is found with regard to illegal transportation of the poppy seeds, the authorities are free to take appropriate steps in accordance with law.

WPA No. 728 of 2023 is thus disposed of.

(Krishna Rao, J.)