

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

WPA 729 of 2023

Bajaj Parivahan Private Limited
-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. Ratan Banik,Adv.
Mr. Saptarshi Banik,Adv.
...for res. no. 4.

Mr. Subir Kr. Saha,Adv.
Mr. Bikramaditya Ghosh,Adv.
...for State.

The petitioner has filed the present writ application praying for a direction upon the respondent authorities for release of the detained vehicle bearing no. RJ18GB0043 having Chassis No. MBIKADWCICEV1493 and Engine No. CVEZ411251 in favour of the petitioner.

Mr. Vinay Shraff, learned Advocate representing the petitioner submits that the consignor of Jiyarul Trading booked two consignments of 132 packs and 40 packs of

Ramdana seeds to be delivered to Galaxy Enterprises from Siliguri to Delhi vide E-way Bill No. 891280206181 dated 17th January, 2023 and 814279915454 dated 14th January, 2023 expiring on 23rd January, 2023 and on 19th March, 2023 through the petitioner. On 18th January, 2023 the respondent no. 3 issued GST Mov-02 for physical verification of the goods and detained the goods and vehicle. On 28th January 2023 the respondent no. 3 had issued show-cause notice to the petitioner. On 16th March, 2023 the petitioner sent a letter to the Senior Joint Commissioner, Matigara, Bureau of Investigation, Siliguri requesting release of above mentioned vehicle. On 9th March, 2023 the respondent no. 2 by an electronic mail rejected the request of the petitioner for release of conveyance and, accordingly, 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 vehicle and the tea are 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 vehicle along with the tea consignment in favour of the petitioner in accordance with law if there is no impediment for release the vehicle and tea consignment within a period of one week from the date of receipt of the copy of the order, subject to furnishing an undertaking that the petitioner shall produce the vehicle before the authority and will appear before the authority, as and when, if required, for further 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. 729 of 2023 is thus disposed
of.

(Krishna Rao, J.)