

05-06-2023
Court No.2
bm/46.

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

W.P.A. 1103 of 2023

Narayan Prasad Lohia
-Vs-
The State of West Bengal & Ors..

Mr. Debayn Goswami,
Mr. Tanmoy Das,
Ms. Ankita Patodia

..For the Petitioner.

Mr. Subir Kumar Saha,
Mr. Momenur Rahaman.
.. For the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to hand over the entire stock of seized lubricant to the petitioner pursuant to the order of Judicial Magistrate, Siliguri in G.R case No.22(11) of 2001.

Affidavit of Service filed in Court today be taken on record.

Learned counsel for the petitioner submits as follows.

The petitioner was earlier engaged as a retail petroleum dealer on the land in question. A case was initiated against him under the Essential Commodities Act in the year 2001. Finally, it ended in his acquittal. In pursuance of the same, on 15.2.2020 the learned

Judicial Magistrate 1st Court, Siliguri directed the Officer-in-Charge of Matigara Police Station to release the seized articles in favour of the petitioner after proper verification and compliance of necessary formalities. Yet, the same has not yet been done.

Learned counsel appearing on behalf of the private respondent submits that his client is the owner of the land in question.

Learned counsel appearing on behalf of the state files a report, which is taken on record, and submits as follows. The seized articles were kept in the zimma of a person after execution of zimmanama. That person passed away in the meantime. This created the problems. However, the police authorities have taken steps to bring this fact in the notice of the learned court so that necessary order can be passed to secure custody of the seized articles. The process is on. It would be rather misconceived to move an application under Article 226 of the Constitution of India for further relief in this regard.

I have heard the learned counsel for the parties and have perused the writ petition and report filed by the State.

There is a specific provision in the Code of Criminal Procedure for return of seized articles. Any breach of an order passed in this respect need not be remedied

by exercising powers under Article 226 of the Constitution of India.

On facts , it appears that a process is on for release of the seized articles.

Therefore, there is no need to pass any further order in this regard.

The writ petition is, thus, disposed of by directing the concerned authorities to pursue the matter before the concerned learned court for release the seized articles.

Urgent Xerox certified copy of this order, if applied for, be supplied with priority basis.

(Jay Sengupta, J.)