

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7950 of 2024

1. Rajnish Kumar son of Masudhan Prasad, Resident of Village-Saidpura, P.S.-Suryagadha, District-Lakhisarai.
2. Raushan Kumar, son of Sita Ram Singh, resident of Village-Darwe, P.S.-Bhador, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna.
2. The Collector cum District Magistrate, Patna.
3. The Sub Divisional Officer, Barh, Patna.
4. The Block Supply Officer, Block Barh, Patna.
5. The Marketing Officer, Barh, Patna.
6. The SHO, Barh, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Diksha Kumari
For the Respondent/s : Mr.Standing Counsel 4

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

3 21-06-2024 Heard learned counsel for the parties.

2. The present writ petition has been filed for the following relief(s):-

“Issuance of appropriate writ in the nature of Certiorari being filed on behalf of the petitioners for directing the Respondent No. 3, i.e. Sub-Divisional Officer, Barh Patna to unseal the Godown / Business Premises of the petitioner, where he runs business of food grains etc in connection with Barh P.S. Case No. 299/2024 registered on 30.04.2024 under Section 272, 420, 34 of the I.P.C. & Section 7 of the Essential



Commodities Act and which has been sealed by respondent authority (Marketing Officer) in an illegal manner by illegally exercising his power.”

3. Learned counsel for the petitioner submits that pursuant to the FIR lodged bearing Barh P.S. Case No. 299/2024 instituted against the petitioner, the authorities have sealed the premises of the petitioner. Learned counsel for the petitioner has stated that the authorities do not have the power to seal the premises of the petitioner shop under the provisions of the Act. That there is no provision under the Act for sealing the premises of the shop of the petitioner and the same is contrary to the provisions of the law. Learned counsel for the petitioner has relied on the judgment of the Hon'ble Court passed in C.W.J.C. No. 8287 of 2023.

4. In the counter affidavit filed by the respondents, the above stated legal position has not been denied by the respondents. However, the learned counsel for the respondents has stated that the present C.W.J.C. is not maintainable as the petitioners have an alternative remedy of filing an appeal under Section 32 (A) of the Act.

5. As seen from the record in the present case, the only reason for sealing the premises of the petitioner is that an



FIR has been lodged against the petitioner except the above ground no other reasons are shown by the authorities.

6. Admittedly, in the present case there is no provision under which shop of the petitioner can be sealed by the authority on the ground that an FIR has been lodged against the petitioner. Even the authorities have not disputed the fact that they do not have the power to seal the premises of the petitioner.

7. Having regard to the above stated facts, the authorities are directed to unseal the premises in question forthwith positively within a period of one week from the date of receipt of the copy of this order.

8. This order does not prevent the officials from taking any action against the petitioner for the violation of any of the provisions of the Act, strictly in accordance with law.

9. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy , J)

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