

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8664 of 2016

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Pintu Sao S/O Satyanarain Sao, Resident of Village- Lakhyapur, P.S. Mohanpur, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through Collector, Gaya
2. The Sub Divisional Officer, Sadar, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vijay Anand
For the Respondent/s : Mr.Annant Pd. Singh, SC-15

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT

Date : 10-09-2024

1. The writ petition has been filed seeking relief to quash the entire Confiscation Proceeding bearing Confiscation Case No. 06 of 2015 pending in the Court of Collector, Gaya under Section 6A of the Essential Commodities Act, 1955. Further relief is sought for quashing the order dated 08.07.2015 passed in Confiscation Case No. 06 of 2015 wherein the District Collector has directed the sale of entire seized goods, in connection with Mufassil P.S. Case No. 205 of 2015 registered under Section 7 of the Essential Commodities Act.

2. The brief facts culled out of the petition are that on the written report of the Officer-in-Charge of Muffasil Police Station, F.I.R. was registered against the petitioner for the offences punishable under Section 7 of the Essential Commodities Act. The written report disclose that on 20.06.2015 the Officer-in-Charge



got secret information that a pickup van bearing No. BR-02/7585 was loaded with bags of rice proceeded to the market to sell the rice. When the van was intercepted at Fatehpur/Gaya Main Road the Officer-in-Charge found 44 bags of rice each containing 50KG in plastic bags and the same were seized. It is further alleged that the petitioner was unable to produce any document for which the Officer-in-Charge got suspicious that the foodgrains were transported to sell the rice in the black-market.

3. It is specific contention of the Learned counsel for the petitioner that the petitioner is engaged in retail trade of foodgrains of free sale and purchase for which no license at that relevant point of time is required. However, the petitioner was enlarged on bail by order of this Court in Cr. Misc. No. 38648 of 2015 dated 28.08.2015. The Learned counsel for the petitioner further contends that the seized 44 bags of rice is not of Government Scheme rather it is agriculture produce which was purchased by the petitioner from the local agriculturist. Basing on submissions of Sub-Divisional Officer, Sadar Gaya vide letter no. 732 dated 27.06.2015, the District Collector initiated a confiscation proceedings and passed orders of interim sale of rice at the rate of APL of maximum market selling rate whichever is higher and directed to



deposit the sale proceeds in the treasury, in favour of the Government, for which the petitioner was aggrieved.

4. It is further contended that the Collector has not followed the Rules under Section 6A sub clause (9) of Essential Commodities Act and without any evidence the said order has been passed for which the petitioner was construed to file the Writ application.

5. On the other hand, a detailed counter affidavit was filed by the 6th respondent contending that the petitioner alongwith Binod Sao and Anil Kumar failed to produce any document relating to the sale and purchase of 22 quintals of rice belonging to the Government subsidised rate and they intend to sale the said rice in the black-market. In presence of two independent witnesses, the said rice was seized and the pickup van was handed over to S.H.O. Muffasil. The counter affidavit further disclose that F.I.R. was registered against the Writ petitioner and five others under Section 7 of the Essential Commodities Act.

6. Learned counsel for the respondents contended that the Collector, Gaya has rightly passed the order as the seized rice is perishable in nature and there is no irregularity in passing the order. It is also contended by the Learned counsel for the respondents that the entire sale proceed were wroth of Rs. 20,698/-



which was deposited in the treasury. It is further contended that there is an alternative remedy available for the petitioner to prefer an appeal against the order under Section 6A before the District Judge and that the petitioner instead of availing the alternative remedy has filed the Writ application, therefore, it is prayed to dismissed the Writ application.

7. Heard Learned counsel for the petitioner as well as Learned counsel for the respondent. Perused the records.

8. It is evident that the District Collector has passed the order under Section 6A of the Essential Commodities Act. It is specific contention of the Learned counsel for the petitioner that the District Collector has not followed Sub Rule (8) and (9) of Section 6A of the Essential Commodities Act, wherein it is specifically stated that the Collector has the powers as vested by the Court under Code of Civil Procedure while making inquiries under the Section and he is empowered for receiving the evidence on affidavits, summoning the attendance of any person, examining on oath and compelling for production of documents. It is also contended by the Learned counsel for the petitioner that the Principles of Natural Justice are violated, as no audi alterm partum and the impugned order is very much silent about his presence and an ex-parte order has been passed.



9. Admittedly, the order is very much silent as to whether any evidence has been received from the petitioner or not? However, the counter affidavit disclose that notice was issued to the petitioner. Admittedly, the order of confiscation is an appealable order and the petitioner has every right to prefer an appeal against the confiscation orders under Section 6C of Essential Commodities Act.

10. Admittedly, the petitioner has not preferred any appeal. During the course of arguments, it is submitted by the Learned counsel for the petitioner that the petitioner intends to prefer an appeal before the appropriate authority and prayed for condonation of delay.

11. Admittedly, the petitioner has filed the present writ application in the year 2016 challenging the orders of the Collector passed under Section 6A of Essential Commodities Act. As stated supra the petitioner now intends to prefer an appeal, challenging the order passed under Section 6A. Therefore, the appellate authority is directed to receive the appeal of the petitioner and to condone the delay as the petitioner has approached this Court within the limitation period. Further the appellate authority shall receive the evidence (oral and documentary) of the petitioner and



shall pass appropriate order within three months from the date of filing of the appeal.

12. With the above said direction, the writ petition is disposed of.

13. Interlocutory Application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.09.2024
Transmission Date	N/A

