

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1209 of 2019

In
Civil Writ Jurisdiction Case No.5991 of 2019

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1. The State of Bihar.
 2. The District Magistrate, Katihar.
 3. The Sub-Divisional Officer, Katihar.
 4. The District Supply Officer, Katihar.
 5. The Marketing Officer, Katihar.
 6. The Block Supply Officer, Kursaila, Katihar.

... .. Appellant/s

Versus

1. Mantu Kumar Jayswal Son of Late Brahmdev Jayswal, Resident of Dumar, P.O.-Pothiya, P.S.-Falka, District - Katihar Proprietor of Shubham Enterprises, Dumar, Falka, Katiahr.
2. The Senior Superintendent of Police, Katihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Alok Ranjan, AC to AAG-5
For the Respondent/s : Mr. Shashi Bhushan Prasad, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-08-2024

1. The appellant- the State of Bihar is concerned with the release of the goods seized as ordered by the learned Single Judge in the impugned judgment.

2. The contention raised by the learned Counsel appearing for the State is that confiscation proceedings were initiated and the writ-petitioner had also marked his attendance before the authority even prior to the writ petition filed.



3. The learned Government Advocate argues that the writ-petitioner, who is the respondent in the appeal has not come with clean hands, especially since the initiation of the confiscation proceedings having been suppressed. Reliance is placed on **K.D Sharma vs. Steel Authority of India Ltd & Ors.; (2008) 12 SCC 481** (paragraph 34).

4. The learned Counsel for the respondent-writ petitioner, however, contends that the criminal proceedings were quashed and that rice, which was the goods seized, is not a controlled item.

5. When the confiscation proceedings were initiated and the writ-petitioner had appeared, we are of the opinion that it was only proper that the remedy left before the authority empowered with confiscation. There was absolutely no reason to invoke Article 226 of the Constitution of India.

6. As far as the criminal case being quashed, the standard of proof in a confiscation proceeding which results in civil consequences and the criminal proceeding which results in otherwise penal consequences are different, insofar as the former being regulated by preponderance of probability while the latter being regulated by proof beyond reasonable doubt.

7. In the above circumstances, we set aside the order



of the learned Single Judge leaving the matter to be considered by the confiscating authority if it has not already been considered. We make it clear that we have not made any observation as to the confiscation proceedings or the specific contention raised by the writ-petitioner that rice is not a controlled commodity, which can be urged before the confiscating authority. The order would be passed untrammelled by reasoning in the judgment of the learned Single Judge which we have set aside.

8. In the circumstance of the rice having been released, the confiscation proceedings will be concluded as expeditiously as possible and in the event of finding the goods liable to be confiscated, the security amount shall be forfeited.

9. The Letters Patent Appeal stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

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