

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1547 of 2024

Arising Out of PS. Case No.-29 Year-2024 Thana- SURYAPURA District- Rohtas

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1. Keval Raj Son of Late Banke Bihari Singh, Resident of Village and Post - Nonhar, P.S.- Suryapura, Bikramganj, Rohtas, Bihar - 802212
 2. Rajendra Prasad Singh Son of Bachcha Singh Resident of Vill. and Post - Nonhar, P.S.- Suryapura, Bikramganj, Rohtas, Bihar - 802212

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director General of Police, Bihar, Patna Bihar
3. The Superintendent of Police, District - Rohtas Bihar
4. The District Magistrate, District - Rohtas Bihar
5. The Sub Divisional Officer, Bikramganj, District - Rohtas Bihar
6. The District Supply Officer, District - Rohtas Bihar
7. S.H.O., Suryapura Police Station, District - Rohtas Bihar
8. Rahul Kumar Singh Son of Sunil Singh R/o Vill.- Purshotampur, Post - Behra, P.S.- Muffasil Ara, Dist.- Bhojpur, Bihar Posted as Incharge-Assistant District Supply Officer, Bikramganj, Dist.- Rohtas

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Advocate
For the Respondent/s : Mr. Madhukar Mishra, S.C.16

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 20-02-2025 The petitioners are a P.D.S. Dealer under the Essential
Commodities Act.

2. The instant writ petition has been filed invoking
extra-ordinary jurisdiction of this Court under Article 226 of the
Constitution of India for the following reliefs:-

“i. For that appropriate writ or writs in the
nature of certiorari for quashing the first
information report in connection with Suryapura
P.S. Case no.29 / 2024 dated 10.02.2024 registered



under Section 420 I.P.C. and 7 of the Essential Commodities Act.

ii. For that any other relief or reliefs may be granted as Your Lordships may deem fit and proper in the facts and circumstances of this case.”

3. Suryapura P.S. Case No.29 of 2024 dated 10.02.2024 was registered under Section 420 of the Indian Penal Code and Section 7 of the Essential Commodities Act, on the basis of a written complaint submitted by the Assistant District Supply Officer, Bikramganj, Rohtas alleging, inter-alia, that on 10.02.2024 at around 10:25 A.M., the raid was conducted under the leadership of the Sub-Divisional Officer, Bikramganj in the shop of the petitioners having License No.05/2007, FPS ID-123400200184 situated at Village and Post-Nonhar, P.S.-Suryapura, Bikramganj, District Rohtas. On physical inspection of the shop, the raiding party found 0.34 quintals of wheat in access and shortage of 24.83 quintals of Rice in the said shop. It was alleged that the above-mentioned food-grains were illegally hoarded by the petitioners for the purpose of black marketing in contravention of the provision of Section 7 of the Essential Commodities Act.

4. It is alleged by the petitioner that the raiding party did not take measurement and weight of all sacks of rice and wheat stored in the said fair price shop. They arrived at a



conclusion regarding excess accumulation of wheat and shortage of rice only on the basis of the entries in e-posh machine and stock report. The raiding party did not inspect and verify the calculation chart. Petitioners were not directed to show cause to explain the mismatch of food-grains and F.I.R. was lodged without any show cause notice. Besides the above-mentioned grounds, it is submitted by the learned Advocate for the petitioners that the concerned Authority did not receive any complaint from any beneficiary regarding shortage of food-grains, no beneficiary was also examined during investigation of the case. It is further submitted by the learned Advocate for the petitioners that after the raid, the petitioners were directed to handover the entry stock and the possession of the shop to one Priyanka Patel, neighbouring FPS owner. At the time of delivery of stock, there was no mismatch in the stock and the allegation made in the F.I.R. was found to be false and misleading.

5. Therefore, the petitioners have prayed for issuance of writ in the nature of certiorari for quashing the F.I.R. filed against him and the subsequent charge sheet.

6. I have heard the learned Advocate for the petitioners and the learned Advocate for the State-Respondents.

7. The application under Article 226 of the



Constitution of India as well as documents filed on behalf of the petitioners and the counter affidavit are carefully perused.

8. In counter affidavit it is stated by the respondents that raid was conducted in presence of the Sub-Divisional Magistrate, Bikramganj and it was found that there was difference in the stock as per e-posh machine and actual stock and thereafter, the then ED SO submitted a written complaint to the S.H.O., Suryapura, on the basis of which Case No.29 of 2024 was registered against the petitioners. The Sub-Divisional Magistrate issued show cause notice against the petitioners on 10.02.2024 directing them to show cause on seven points as mentioned in the Letter No.221 dated 10.02.2024. Subsequently, on 09.03.2024 a second show cause was issued to the petitioners, then only their license was suspended w.e.f. 10.02.2024 and they asked to deliver the stock to one Priyanka Patel, PDS License Holder No.7/2021.

9. It is also contended on behalf of the respondents that the petitioners violated Rule 14(v), (vii) Para No.17 of Schedule-3 and Rule-25(i)(e) of Bihar Targeted PDS (Control) Order, 2016, which has been enacted after exercising powers conferred by Section 3 of the Essential Commodities Act and for violation of the above-mentioned Rule, the petitioners are liable



to be prosecuted under Section 7 of the Essential Commodities Act.

10. Having heard the learned counsel for the parties, it appears to this Court that the issue as to whether there was mismatch of stock in the FPS of the petitioners or whether proper raid was conducted or not are questions of fact, which can only be decided on the basis of evidence during Trial. The issue involved in the instant case as per the prosecution is that there was shortage of food-grains in the FPS of the petitioners, which was denied by him. The entire dispute relates to determination of disputed question of fact.

11. Considering such aspect of the matter, this Court is not in a position to quash the F.I.R. and consequent charge sheet at this stage.

12. Therefore, the instant writ petition is dismissed on contest, there shall however, no order as to cost.

(Bibek Chaudhuri, J)

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