

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23781 of 2018

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Ashok Kumar Lohiya S/o of Late Chiranjivi Lal Lohiya Resident of Villag -
Madhurapur, P.S. - Bihpur Bhawanipur, P.S.- Bihpur, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Divisional Commissioner, Bhagalpur.
3. The District Magistrate, Bhagalpur.
4. The District Supply Officer, Bhagalpur.
5. The Sub-Divisional Officer, Naugachia.
6. The Block Supply Officer, Narayanpur, District - Bhagalpur.
7. The Block Development Officer, Narayanpur, District- Bhagalpur.
8. The Circle Officer, Narayanpur, District Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha,
For the Respondent/s : Mr. S. Raza Ahmad- AAG 5

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 15-07-2026

1. The petitioner has filed the Writ
petition for the following reliefs:

*“For issuance of an
appropriate writ/writs and order/orders
in the nature of Ceriorari for quashing of
the Order contained in Memo No 95,
dated 20/11/2018 passed by the Block
Supply Officer, Narayanpur i.e.
Respondent No.6 by which the
petitioner was directed to deposit the
amount so received from the Seized*



wheat and rice in connection with EC 6A Case No.: 06/2015-2016, within 24 Hrs. in the District Treasury, Bhagalpur failing which First Information report will be lodged against the petitioner contrary to the facts that the seized wheat and rice were received by the petitioner on 11/04/2015 i.e. after 6 months from the date of seizure, in presence of the witness namely Nageshwar Yadav in rotten condition and in absence of any clarification from the respondent authorities, to the letters so written by the petitioner seeking clarification and direction for storage and use of the seized rotten wheat and rice and all of a sudden the impugned order dated 20/11/2018 has been passed without any showcase and without any reasonable opportunity of being heard and further for any other relief and reliefs for which the petitioner is entitled in the facts and circumstances of the case."

2. The brief facts culled out of the writ petition is that the petitioner was a licensed PDS dealer since the year 1991. Pursuant to Memo No.



73 dated 02.04.2015 issued by the Circle Officer-cum-Block Supply Officer, Narayanpur, he was directed to take custody of the wheat and rice seized in connection with Bhawanipur P.S. Case No. 384 of 2014 and to keep the same safely on a rotational basis. According to the petitioner, the seized foodgrains were handed over to him on 11.04.2015, nearly six months after their seizure, and were already in a rotten and unusable condition. The petitioner asserts that the condition of the foodgrains was recorded at the time of receiving the same in the presence of witnesses.

3. It is further the case of the petitioner that immediately thereafter addressed letters dated 18.04.2015 and 27.04.2015 to the competent authority seeking appropriate instructions regarding storage or disposal of the rotten foodgrains, but no response or direction was ever issued. Subsequently, his PDS licence was cancelled on 01.12.2016 and he ceased to operate the PDS shop.

4. The petitioner further states that after a



gap of more than three years, he received Memo No. 95 dated 20.11.2018 directing him to deposit the value of the seized foodgrains in the District Treasury within 24 hours, failing which an FIR would be lodged against him. According to the petitioner, the alleged earlier communication dated 15.10.2018 was never served upon him and was enclosed only along with the impugned order. He submitted a detailed reply explaining that the foodgrains had already become completely rotten, that he had repeatedly sought instructions from the authorities, and that he could not be held liable for the loss, caused due to the inaction of the respondents.

5. Learned counsel for the petitioner submits that the impugned order is wholly illegal, arbitrary and violative of the principles of natural justice, as it has been passed without issuance of any show-cause notice or affording the petitioner any opportunity of hearing. It is contended that the petitioner had merely acted in compliance with the direction of the authorities and had taken custody



of the foodgrains in the condition in which they were handed over to him. It is further submitted that despite repeated representations seeking guidance regarding the rotten stock, the authorities remained silent and thereafter, after an inordinate delay of about three years, sought to recover the value of the foodgrains from the petitioner. Learned counsel argues that the petitioner cannot be saddled with liability for deterioration of the foodgrains, which had already become unfit for consumption before they were handed over to him. It is also submitted that the threat of lodging an FIR without following due process of law is wholly unsustainable. On these grounds, it is prayed that the impugned order dated 20.11.2018 be quashed.

6. A detailed counter affidavit was filed on behalf of the respondents. The Learned counsel appearing for the respondents opposed the writ petition and submitted that the impugned order does not suffer from any illegality warranting interference under Article 226 of the Constitution



of India. It is submitted that the foodgrains in question were seized in connection with Bhawanipur P.S. Case No. 384 of 2014 and, pursuant to the directions of the competent authority, the petitioner, being a PDS dealer, was entrusted with the custody of the seized wheat and rice on a rotational basis, under Memo No. 73 dated 02.04.2015 to ensure their safe preservation.

7. It is further submitted that in E.C. Case No. 06 of 2015-16, the Collector, Bhagalpur, by order dated 11.05.2015, directed that the seized foodgrains be handed over to a local PDS dealer for sale, at the prescribed APL rate and that the sale proceeds shall be deposited in the District Treasury, as the foodgrains were perishable in nature. According to the respondents, the petitioner was fully aware of the said direction but failed to comply with the same.

8. The Learned counsel further submitted that Memo No. 86 dated 15.10.2018 directing the petitioner to deposit the amount within three days



was duly served upon him on the same day. Despite the said communication and subsequent reminders, the petitioner neither deposited the amount nor complied with the directions of the competent authority. Consequently, the impugned Memo No. 95 dated 20.11.2018 was issued, and thereafter the matter was also communicated to the police for lodging of an FIR for non-compliance with the lawful orders.

9. It is also submitted that the petitioner's licence had already been cancelled in the year 2016 after due enquiry and upon consideration of his unsatisfactory reply to the show-cause notice. The respondents denied the petitioner's allegation that no notice or opportunity had been granted.

10. Learned counsel for respondents contended that the plea of the foodgrains having been received in a rotten condition is merely the petitioner's own assertion, unsupported by any reliable material. According to the respondents, such disputed questions of fact cannot be adjudicated in the writ jurisdiction. It is lastly



submitted that the impugned action has been taken strictly in compliance with the orders passed by the Collector and the District Supply Officer, and, therefore, the writ petition, being devoid of merit, deserves to be dismissed.

11. Having heard learned counsel for the parties, considered the pleadings and the materials available on record, this Court finds that the writ petition has no merit.

12. It is not in dispute that the seized wheat and rice were handed over to the petitioner by the competent authority for safe custody and rotation basis. The records further show that the Collector, Bhagalpur, in E.C. Case No. 06 of 2015-16, directed that the seized foodgrains be sold at the prescribed rate and the sale proceeds shall be deposited in the District Treasury, as the foodgrains were perishable in nature.

13. The case of the petitioner is that the foodgrains were already in a rotten condition when they were handed over to him and that he had written letters to the authorities seeking necessary



instructions. However, the respondents have denied the said claim and have stated that the petitioner was under an obligation to comply with the order of the Collector. The respondents have also stated that Memo No. 86 dated 15.10.2018 directing the petitioner to deposit the amount was duly served upon him and that, despite repeated directions, he failed to deposit the amount.

14. The plea raised by the petitioner that the foodgrains were rotten at the time of delivery is a disputed question of fact. Such disputed facts cannot be examined in detail in exercise of writ jurisdiction under Article 226 of the Constitution of India. The petitioner has also failed to place any clear and convincing material on record to establish that the impugned order is illegal or has been passed without authority of law.

15. This Court further finds that the impugned order has been issued pursuant to the orders passed by the competent authorities in the confiscation proceeding. No arbitrariness, mala fide, violation of any statutory provision or



jurisdictional error has been shown so as to justify interference by this Court in exercise of its writ jurisdiction.

16. For the reasons aforesaid, this Court finds no ground to interfere with the impugned order dated 20.11.2018. Accordingly, the writ petition is dismissed.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.07.2026
Transmission Date	

