IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17468 of 2023

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Manoj Kumar Sah Son of Babu Saheb Sah, Resident of Mohalla- Ward No. 14, J.P. Colony, P.S. Town, District- Madhubani.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food Supply and Consumer Protection Department, Govt. of Bihar, Patna.
2. The District Magistrate, Madhubani.
3. The Sub-Divisional Officer, Jai Nagar, District - Madhubani.
4. The District Supply Officer, Madhubani.
5. The District Transport Officer, Madhubani.
6. The Block Supply Officer, Jai Nagar, District- Madhubani.
7. The S.H.O., Jainagar Police Station, District - Madhubani.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Kumar Jain, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad (SC 8)

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT
Date : 21-07-2026

1. The Writ petition is filed for the following reliefs:

> "For quashing of the order dated 10.07.2023 passed by the District Magistrate, Madhubani in Supply (confiscation) Case No. 65/2013-14 whereby and whereunder the grains and Vehicle (Truck) bearing Registration No. BR06C-7651 of the petitioner which was seized in connection with Jainagar P.S. Case No. 208/13 has been confiscated and

directed to be sold by public auction u/s 6 (A) of the EC Act. 1955."

2. The brief case of the petitioner is that he is the proprietor of **M/s Janki Rice Mill, Narar**, and had entered into an agreement with the Bihar State Food and Civil Supplies Corporation (BSFC), Madhubani on 07.02.2013 for milling paddy and supplying Custom Milled Rice (CMR) in accordance with the terms of the agreement. The petitioner is also the registered owner of Truck No. BR-06C-7651.

3. It is the case of the petitioner that he supplied 540 bags of CMR rice to the BSFC Godown at Jainagar on 20.09.2013. However, the rice was rejected by the Corporation on the ground of quality and was returned to the petitioner on 17.10.2013. The rejected rice was loaded on two trucks, including Truck No. BR-06C-7651 carrying 255 bags of CMR rice. According to the petitioner, the truck could not proceed to its destination due to a mechanical defect and, after repairs, while proceeding on 24.10.2013, it was intercepted and

seized by the police, leading to registration of Jainagar P.S. Case No. 208 of 2013 under Sections 409, 420 and 120B of the Indian Penal Code and Section 7 of the Essential Commodities Act.

4. The petitioner asserts that the seized rice was the same rejected stock returned by the BSFC and all relevant documents, including the challan and other transport papers, were available with him. Thereafter, confiscation proceedings were initiated under Section 6A of the Essential Commodities Act, being Supply (Confiscation) Case No. 65 of 2013-14 before the District Magistrate, Madhubani.

5. The petitioner had earlier approached this Court in CWJC No. 5873 of 2014, wherein this Court directed the District Magistrate to conclude the confiscation proceeding expeditiously. During the pendency of the proceeding, the District Magistrate ordered interim release of the truck and payment of Rs.79,383/- being the sale proceeds of the confiscated rice. However, after about nine years, the District Magistrate passed the impugned

order dated 10.07.2023 directing confiscation of the truck and recovery of the amount of Rs.79,383/- already paid to the petitioner. Aggrieved by the said order, the petitioner has filed the present Writ petition.

6. The Learned counsel appearing on behalf of the petitioner submitted that the impugned order dated 10.07.2023 passed by the District Magistrate, Madhubani is illegal, arbitrary and contrary to the provisions of the Essential Commodities Act as well as to the principles of natural justice.

7. It was submitted that the petitioner had not committed any violation of the Essential Commodities Act or any Control Order. The rice seized by the authorities was not illegally transported but consisted of rejected CMR rice which had been returned by the BSFC itself, after failing the quality test. It was argued that all relevant documents relating to the rejected rice and its transportation were available with the petitioner, and therefore no offence under the

Essential Commodities Act or the Indian Penal Code was made out.

8. The Learned counsel further submitted that the notice initiating confiscation proceedings did not disclose the specific provision of the Essential Commodities Act or any Control Order alleged to have been violated by the petitioner. In the absence of such particulars, the confiscation proceeding itself was without jurisdiction and legally unsustainable.

9. It was further argued that although this Court, in CWJC No. 5873 of 2014, had directed the District Magistrate to conclude the confiscation proceeding expeditiously, preferably within one month, the authority kept the matter pending for nearly nine years and thereafter passed the impugned order without assigning valid reasons.

10. The Learned counsel submitted that the impugned order was passed without serving proper notice upon the petitioner and without affording him an effective opportunity of hearing. According to the petitioner, the confiscation order

has virtually been passed ex parte without considering the objections and documents produced by him, thereby violating the principles of natural justice.

11. It was also submitted that the District Magistrate had earlier, by order dated 18.12.2014, directed release of the truck and payment of Rs.79,383/- to the petitioner being the value of the sold CMR rice. Having passed such an order, the authority could not subsequently direct recovery of the same amount without recording any valid reasons or considering the petitioner's defence.

12. Lastly, it was submitted that the impugned order is perverse, suffers from non-application of mind and has been passed in violation of the statutory provisions as well as the earlier directions issued by this Court. Accordingly, it was prayed that the order dated 10.07.2023 passed in Supply (Confiscation) Case No. 65 of 2013-14 be quashed and the Writ petition be allowed.

13. A detailed counter affidavit was filed

on behalf of the respondents contending that the Writ petition is devoid of merit and is liable to be dismissed. It was contended that on 24.10.2013, acting on secret information, the Block Supply Officer, Jainagar intercepted Truck No. BR-06C-7651 belonging to the petitioner. During inspection, the driver and the accompanying person failed to produce any valid documents relating to the rice loaded on the truck. On verification, the vehicle was found carrying 255 bags of rice bearing stickers of different FCI and non-FCI rice mills, and not the rejected CMR of the petitioner's rice mill as alleged. Consequently, Jainagar P.S. Case No. 208 of 2013 was registered under the relevant provisions of law and confiscation proceedings were initiated under Section 6A of the Essential Commodities Act.

14. It was further submitted that the District Magistrate had initially directed sale of the seized food grains through the Public Distribution System and also initiated confiscation proceedings against the truck. Pursuant to the order of this

Court passed in CWJC No. 5873 of 2014, the truck was released on interim custody and the sale proceeds of the seized rice were paid to the petitioner. Thereafter, several opportunities were granted to the petitioner to participate in the confiscation proceedings. The next date was fixed on 26.02.2015, but the petitioner failed to appear. Subsequently, by order dated 14.02.2023, a final opportunity was granted and notice was sent through registered post fixing 29.05.2023 for appearance. Even thereafter, another opportunity was given on 10.07.2023, but the petitioner again remained absent. It was, therefore, argued that the impugned order was passed only after granting adequate opportunities and in compliance with the principles of natural justice.

15. The Learned counsel for the respondents further submitted that the petitioner had violated the provisions of the Essential Commodities Act, by transporting rice belonging to other rice mills and not the rejected CMR as claimed by him. The confiscation proceedings were

validly initiated under Sections 3 and 6A of the Essential Commodities Act and the District Magistrate rightly exercised the statutory power of confiscation on the basis of the materials available on record. It was also argued that the allegation that no notice or opportunity of hearing was given is factually incorrect, as repeated notices and opportunities were afforded to the petitioner, but he deliberately failed to participate in the proceedings.

16. It was, therefore, submitted that the impugned order dated 10.07.2023 does not suffer from any illegality, arbitrariness or violation of principles of natural justice warranting interference by this Court in exercise of its Writ jurisdiction, and the Writ petition deserves to be dismissed.

17. At this juncture, the Learned counsel for the respondents contended that Section 6(C) of the Essential Commodities Act, 1955 provides for the provision of appeal.

18. Section 6(C) read as follows:

"6C. Appeal.— (1) Any person

aggrieved by an order of confiscation under section 6A may, within one month from the date of the communication to him of such order, appeal to any judicial authority appointed by the State Government concerned and the judicial authority shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.

(2) Where an order under section 6A is modified or annulled by such judicial authority, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under section 6A, the person concerned is acquitted, and in either case it is not possible for any reason to 3[return the essential commodity seized], 4[such persons shall, except as provided by sub-section (3) of section 6A, be paid] the price therefore 5[as if the essential commodity,] had been sold to the Government with reasonable interest calculated from the day of the seizure of 6 [the essential commodity] 7 [and such price shall be determined—

(i) in the case of food grains, edible oil seeds or edible oils, in accordance with the provisions of sub-section (3B) of section 3;

(ii) in the case of sugar, in accordance with the provisions of subsection (3C) of section 3 ; and

(iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3.].”

19. Having heard the Learned counsel appearing for the parties and upon perusal of the pleadings and materials available on record, this Court finds that the petitioner had earlier approached this Court in CWJC No. 5873 of 2014, wherein the District Magistrate was directed to conclude the confiscation proceeding expeditiously. During the pendency of the confiscation proceeding, the District Magistrate, by order dated 18.12.2014, directed interim release of the truck in question and also ordered payment of Rs.79,383/-, being the sale proceeds of the seized food grains, to the petitioner.

20. It further appears from the record that thereafter the confiscation proceeding remained pending for a considerable period. According to the respondents, several opportunities were afforded to the petitioner to participate in the proceeding and even registered notice was issued before the final order came to be passed. Ultimately, by order dated 10.07.2023, the District Magistrate directed confiscation of the vehicle and also directed recovery of the amount of Rs.79,383/- earlier paid to the petitioner. The petitioner, instead of availing the statutory remedy available under the Essential Commodities Act, has directly invoked the Writ jurisdiction of this Court.

21. From the reliefs sought in the Writ petition, it is evident that the challenge is directed against an order of confiscation passed under the provisions of the Essential Commodities Act, 1955. Section 6C of the Act specifically provides a statutory remedy of appeal against an order of confiscation. Ordinarily, when such an efficacious alternative remedy is available, this Court would

refrain from exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, particularly when the dispute involves examination of factual issues.

22. This Court also notices that the impugned order was passed on 10.07.2023, whereas the present Writ petition has been filed thereafter without first exhausting the statutory appellate remedy. The petitioner remained inactive for a considerable period after passing of the impugned order and has not furnished any satisfactory explanation for not approaching the appellate authority within the prescribed period of limitation.

23. At this stage, the Learned counsel for the petitioner contended that the petitioner intends to prefer an appeal before the concerned authority, but the limitation period for filing the appeal has lapsed, and therefore prayed for a direction to the concerned authority to entertain the appeal in accordance with Section 5 of the Limitation Act.

24. Taking into consideration that the petitioner has an alternative remedy for filing an appeal, the Writ petition is disposed of with a direction to the petitioner to file an appeal within four weeks from the date of receipt of this order before the authority concerned. The delay in filing the appeal shall be condoned by the concerned authority, and the authority shall dispose of the appeal within three months from the date of filing of the appeal.

25. With the above said observation, the Writ petition is disposed of.

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

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.07.2026
Transmission Date	