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**(2013) 12 PAT CK 0014**  
**In the Patna High Court**  
**Case No : CWJC No. 12409 of 2013**

Arbind Kumar

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 05-12-2013

**Acts Referred:**

**Citation :** (2014) 1 PLJR 239

**Hon'ble Judges :** Navaniti Prasad Singh, J

**Bench :** Single Bench

**Advocate :** Ajay Prasad, for the Appellant; S.K. Saraf, for the Respondent

**Final Decision :** Allowed

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## Judgement

Navaniti Prasad Singh, J.—Heard learned counsel for the petitioner and the State. Counter affidavit has been filed and with consent of parties this writ petition is being disposed of at this stage itself. The petitioner has filed this writ petition for challenging the validity of seizure of 264 bags of wheat while in transit loaded on a public carrier truck.

2. It appears that while the wheat was in transit it was intercepted by the informant, Block Marketing Officer. Let it be noted that the counter affidavit has been sworn by the said officer himself. Upon demand neither the driver nor the khalasi could produce any paper with regard to its transportation. Accordingly, 264 bags of wheat of each packet containing 49 kgs. of wheat were seized as per the seizure list. Thereafter, an F.I.R. was lodged, giving rise to Morkahi P.S. Case No. 41/2013, on 03.05.2013 for alleged violation of the provisions under the Essential Commodities Act. What is alleged in the F.I.R. is that on papers not being produced one of the bags was got opened and it seems that the wheat was old and coming from Punjab. How the respondent Block Marketing Officer could make out by seizure and inspection that the wheat was old and came from Punjab is anybody's guess? What is then alleged that the truck driver and khalasi could not produce any paper and it seems that the wheat was being

taken over for black marketing? In the counter affidavit, it is now being stated that probably the bags containing wheat were of Punjab marking on that. It is again anybody's guess as to what is made by this.

3. Be that as it may, accepting the allegation as it is, it is submitted that no offence is made out. It cannot be disputed that as to this date there is no licensing order controlling the trade of wheat. There is no movement restriction in so far as wheat is concerned. There is no statutory price restriction so far as wheat is concerned. I wonder how it can at all be alleged that wheat was taken for black marketing. In this connection, I may only refer a decision of this Court in the case of Pritamlal Yadav and others vs. The State of Bihar & Ors. since reported in 1982 PLJR 304 wherein identical issues were raised and answered by this Court as against the State. There are no orders issued under the Essential Commodities Act regulating the sale, purchase or delivery of wheat.

4. Thus, in my view, petitioner is correct to submit that there is absolutely no offence is committed and the institution of the F.I.R. itself is abuse of process of Court. In the counter affidavit, it is already stated that there is no confiscation proceeding.

5. Considering the aforesaid, I hold that the F.I.R., as instituted against the petitioner, is an abuse of process of Court. The F.I.R. does not disclose any punishable offence. It is, accordingly, quashed. As the police could not file the final form till date the seizure consequently is illegal. I, therefore, direct that the seized wheat be released to the petitioner forthwith without any conditions. The writ application is allowed.