
(2010) 11 PAT CK 0006
In the Patna High Court
Case No : CWJC No. 3233 of 2008

Ashok Kumar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-11-2010

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (2011) 59 BLJR 2420 : (2011) 2 PLJR 826

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Judgement

Ajay Kr. Tripathi, J.—Writ was filed by the Petitioner for a direction upon the Respondents to release seeds which were seized from the establishment of the Petitioner at Muzaffarpur on 7.12.2007 by Sub-Divisional Agriculture Officer, Muzaffarpur on so-called oral instruction of the District Magistrate, Muzaffarpur.

2. Petitioner is supposed to be a licensee and had a valid subsisting licence under the Seeds Control Order, 1983. He was carrying on the business since the year 2003 without any complaint of breach of law much, less the terms and conditions of the licence. On the date of the incident a raid was carried out in the shop of one Shri Chandeshwar Pandey as well as yet another establishment known as Krishak Sewa Kendra. In the same transaction the Sub-Divisional Officer, West Muzaffarpur also got the premises of the Petitioner namely, Rampur Hari Bij Bhandar opened in the absence of the Petitioner and seized about 100 bags of wheat seeds manufactured by Uttaranchal Tarai Vikas Nigam. Each bag weighs 40 kgs. Another 30 bags of wheat seeds weighing 20 kgs. each was also seized, besides 15 bags of maize seeds weighing 40 kgs. each coupled with three drums of thimet weighing about 50 kgs. An FIR was lodged on 7.12.2007 which was registered as Muzaffarpur Town P.S. Case No. 516 of 2007 u/s 7 of the Essential Commodities Act. The FIR so instituted talked about other establishments but in the said case the Petitioner was not made an accused. When the Petitioner came to know about the said development, he raised objection that in absence of

criminal case having been lodged against the Petitioner, nor any confiscation proceeding having been initiated, the seizure effected by the Sub-Divisional Agriculture Officer, East Muzaffarpur was illegal. Further he had no authority under the Seeds Control Order to carry out any search and seizure in respect of the seeds. Petitioner approached the Respondents but he did not beget any response. He further learnt that all the seized articles were handed over for safe custody to a private person namely, Vijay Kumar Singh who was stated to be staff of one Vaishali Enterprises, Akharaghat Road, Muzaffarpur. Since the Petitioner did not get any indulgence he decided to file the present writ application seeking release of the seized items including the seeds.

3. Writ came to be filed on 13th February, 2008. Matter came to be taken up for the first time on 22.4.2008 when the counsel for the State was directed to file a categorical counter affidavit with regard to the claim made in the writ application. Since a sketchy counter affidavit or evasive kind of counters affidavit was filed, State was directed to file supplementary counter affidavit. While the matter was under consideration of the Court, it was brought to the notice of the court that to frustrate the writ application the official Respondents specially Respondent No. 3, the Sub-Divisional Agriculture Officer, Muzaffarpur East was trying to alienate the seized goods. Vide order dated 14.7.2008 a direction was issued to Respondents No. 3, 4 and 5 to explain their conduct. Even the original records were called for to verify whether the so-called sale of the seized goods and the so-called deposit of the (sic) with the treasury was done with the object of frustrating the writ application especially when the matter was subjudice.

4. Matter came to be adjourned on several dates. Various affidavits and show cause came to be filed. More the affidavits the murkier the situation became. The conduct of the Sub-Divisional Agriculture Officer i.e. Respondent No. 3 came under close scrutiny because perusal of the records produced before the court did give an impression to the court that interpolations and insertions have been made in the record to frustrate the writ application and to overreach the Court. The so-called sale which was sought to be shown was an interpolation from the back date after" the Petitioner had already approached the High Court and when the State was directed to file their counter affidavit. The Court therefore vide order dated 17.5.2010 directed the Additional Director General, Vigilance to look into the entire original records with regard to the transaction of the dispute and make a report. The report of the Vigilance came to be tendered before the court in a sealed cover.

5. The report was gone through and it does not paint the Sub-Divisional Agriculture Officer in creditable light. Reflections are there that his conduct has not been above board and that effort had been made at interpolation on records.

6. Affidavits have been filed by Respondent No. 3 tendering unqualified apology before the Court and for taking a lenient view of the matter when the situation reached the present position and became uncontrollable for him. The Court is not willing to accept such apology when strenuous efforts were made by the

Respondent at every stage of the litigation, to justify his conduct and action which has now turned out to be otherwise.

7. In view of the above the Court is of the opinion that the matter should be looked into closely only by the Principal Secretary, Agriculture, Government of Bihar who shall ensure that a departmental enquiry is held against Respondent No. 3 after drawing up a set of charges for his conduct and behaviour in performance of his official duty and in the manner in which he tried to overreach the Court in the present litigation, when a citizen had already approached the High Court for seeking relief. A copy of the enquiry report furnished by the Vigilance to this Court will be forwarded by the registry alongwith a copy of this order for follow-up action. The Court expects that the Principal Secretary will do the needful within reasonable time frame and inform the Court as to the outcome of the said exercise.

8. In addition to that the Court also feels that the Additional Director, Vigilance should get the vigilance enquiry report looked into closely and if he feels that the findings thereto have elements of criminality then he may consider instituting a case against Respondent No. 3 namely, Dr. Onkar Nath Singh, Sub-Divisional Agriculture Officer, Muzaffarpur East.

9. The office will retain a photocopy of the report of the Vigilance and forward the original in a sealed cover to the Additional Director, Vigilance with a copy of this order. The Additional Director General; Vigilance will also report to the Court as to the final opinion on the issue at the earliest for information to the Court.

10. The writ application stands disposed of with an observation that the nature of relief or compensation to the Petitioner will be considered after the above two exercise.