(1994) 08 PAT CK 0002

In the Patna High Court

Case No : Criminal W.J.C. No. 531 of 1994

Inter State Transport Agency APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 09-08-1994

Acts Referred:
Bihar Finance Act, 1981 — Section 31(3), 33(5)

Citation : (1994) 2 PLJR 860

Hon'ble Judges : Dharmpal Sinha, J;D.S. Dhaliwal, J

Bench : Division Bench

Judgement

1. Heard learned Counsel for the Petitioner as also learned J.C. to Government Advocate.

2. In this writ application prayer hat been made for issuing a direction to the Respondents, particularly Respondent Nos. 2, and 3, who are officers of the Commercial Taxes Department, Government of Bihar, to release the trucks bearing registration No. BIA 6506 and BR1D 6351, which have been seized on 3.8.1994 and 5.8.1994 respectively by the Sales Tax Authorities when some goods were being carried on them. It appears that the Sales Tax Authorities have issued notices (Annexures 1/a and 1/c) indicating that proceedings u/s 31, Sub-section (3) of the Bihar Finance Act for (imposing penalty relating to sales tax in [regard to the goods which were found on fie truck have been initiated.

3. Learned Counsel for the Petitioner submits that the Petitioner, who is a Transport Agency was and is ready to furnish security bond of three times amount which the Respondents may assess as sales tax on the goods and prayer had been made for releasing the trucks and it was made clear that the security bond will be furnished; but the trucks were not released and continue to be detained unnecessarily on road in this rainy season without security. Learned Counsel for the Petitioner submits that in view of the provisions of Section 33(5)(b) of the Bihar Finance Act, the Sales Tax Authorities (Respondents in this case) are bound to release the trucks in question if security bond of three times

amount of sales tax is furnished in respect of the goods loaded on each of the trucks.

4. Learned J.C. to Government Advocate submits that the release can be ordered only if sufficient security is furnished and the Petitioner is only then entitled to get the trucks released.

5. Considering the submissions we dispose of this writ petition with a direction to the Respondents No. 2 and 3 to release the trucks and goods in terms of Section 33(5)(b) of the Bihar Finance Act, if the Petitioner furnishes security (which need not be cash security) to the satisfaction of the concerned authority, of the amount which is three times of the sales tax to be assessed for the goods in question by the Respondents, within three days from the date of receipt/ production of a copy of this order, whichever is earlier.

