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**(2011) 07 PAT CK 0009**  
**In the Patna High Court**  
**Case No : CWJC No. 14544 of 2010**

Kumar Gaurav @ Rinku Gupta

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 12-07-2011

**Acts Referred:**

Essential Commodities Act, 1955 — Section 3, 7

**Citation :** (2011) 07 PAT CK 0009

**Hon'ble Judges :** Jyoti Saran, J

**Bench :** Single Bench

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## Judgement

Jyoti Saran, J.—Heard Learned Counsel appearing on behalf of the parties. The writ petition has been filed seeking direction to the Respondents for release of 144 bags of rice each containing 50 kgs. equivalent to 72 quintals in favour of the Petitioner, which according to the Petitioner, was illegally seized by the Respondents in purported exercise of powers u/s 7 of the Essential Commodities Act (hereinafter referred to as "the Act") giving rise to Bettiah Town P.S. Case No. 112 of 2010.

2. A confiscation proceeding was initiated before the Respondent No. 2 the District Magistrate, West Champaran bearing Case No. C.R.M. 05/2010-11. It is not in dispute that the seized item, which is rice, is a decontrolled item and does not require licence under the provisions of the Bihar Trade Articles (Licenses Unification) Order, 1984 issued u/s 3 of the Act.

3. Learned Counsel for the Petitioner submits that even in absence of evidence to the contrary, the rice being purchased by the Petitioner has been confiscated on mere suspicion. It is contended that rice being a perishable commodity, the Respondent District Magistrate ought to have released the same upon some surety pending the outcome of the confiscation proceedings and the criminal proceedings initiated. Not having done so, the Petitioner has moved this Court.

4. Learned Counsel for the Petitioner, relying upon several orders passed by this

Court as contained in Annexure-4 series to the writ petition, submits that in similar circumstances, order of release of the seized articles has been passed by this Court, pending the outcome of the criminal proceedings and the confiscation proceeding. This position is also admitted by the Learned Counsel appearing for the State.

5. Having heard Learned Counsel for the parties and having considered the various orders passed by this Court placed at Annexure-4 series, I deem it fit to direct the Respondent No. 2 the District Magistrate-cum-Collector, West Champaran at Bettiah to ensure release of 144 bags of rice each containing 50 kgs. which is equivalent to 72 quintals and confiscated by the authorities under the confiscation proceedings bearing Case No. C.R.M. 05/ 2010-11 to the Petitioner after proper verification of his ownership and subject to furnishing a bond by the Petitioner of an equivalent amount to the satisfaction of the District Magistrate-cum -Collector, West Champaran, at Bettiah. The release would be subject to final outcome of the confiscation proceedings bearing Case No. C.R.M. 05/2010-11 and the criminal proceedings.

6. Needless to mention that the rice being a perishable commodity should be released in favour of the Petitioner within a period of four weeks from the date of receipt/production of a copy of this order.

7. At this stage, Learned Counsel for the Petitioner submits that in case during the pendency of the writ petition, the seized rice has been disposed of by the Respondent authorities and the money deposited in the Treasury, the said amount should be returned to the Petitioner subject to the condition aforesaid. The prayer is just and thus is allowed.

8. With the aforesaid directions, the writ petition is disposed of. Let the copy of this order be communicated to the Respondent No. 2 District Magistrate, West Champaran, Bettiah by fax at the cost and expense of the Petitioner.