
(2001) 01 PAT CK 0022
In the Patna High Court
Case No : Criminal W.J.C. No. 188 of 2000

Lakshaman Sah

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 15-01-2001

Acts Referred:

Constitution of India, 1950 — Article 226
Essential Commodities Act, 1955 — Section 3, 7

Citation : (2001) 3 PLJR 128

Hon'ble Judges : P.K. Deb, J

Bench : Single Bench

Final Decision : Allowed

Judgement

P.K. Deb, J.—Heard learned Counsel for both the parties.

2. This petition has been filed under Article 226 of the Constitution of India for declaring Piro P.S. Case No. 108/99 registered u/s 7 of the Essential Commodities Act and also the registration of special case No. 6/99 for confiscation of the articles seized as illegal, without jurisdiction and inoperative in the eye of law.

3. In total 113 bags of wheat had been seized in that case stating that some of the bags were loaded on a cart and some were kept in a room of the Petitioner. On the other hand Petitioner's contention is that he is an agriculturist and that the bags of wheat did not belong to him alone but they belonged to different other persons and those persons had also claimed in the confiscation proceeding itself.

4. In the counter affidavit it has been stated that the Petitioner is a dealer and not an agriculturist and a producer. So the first criterion remains as to whether the Petitioner is a producer or a dealer. Again even if it is considered that he is a dealer then also for promulgation of the Unification Order, there must be a Notification regarding the storage limit of wheat. Nowhere it is there that in the State of Bihar a Notification making storage limit of wheat is there. In that view

no question of violation of Unification order to the extent of Section 3 of the E.C. Act comes in. Then even if the Petitioner is a dealer then also the proceeding is without jurisdiction as prima facie no offence is set out. If he is a producer/ agriculturist then the question of criminal proceeding against him does not arise at all. It appears that in similar circumstances one Bindeshwar Prasad Sah came up before this Court and a Bench of this Court by the order dated 13.1.1999 quashed the whole of the proceedings including the criminal proceedings and the confiscation proceedings vide annexure-5. The case of the Petitioner stands on similar footing.

5. Considering the facts and circumstances of the case this application is hereby allowed. The whole of the criminal proceedings in Piro P.S. Case No. 108/99 and the proceedings for confiscation arising out of registration of special case No. 6/99 are hereby quashed.