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**(2011) 08 PAT CK 0146**  
**In the Patna High Court**  
**Case No : Criminal Writ No. 569 of 1998**

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|--------------------------------------------|------------|
| Manoranjan Prasad @ Manoranjan Kumar Gupta | APPELLANT  |
| Vs                                         |            |
| State of Bihar and Others                  | RESPONDENT |

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**Date of Decision :** 04-08-2011

**Acts Referred:**

Essential Commodities Act, 1955 — Section 7

**Citation :** (2011) 08 PAT CK 0146

**Hon'ble Judges :** Shailesh Kumar Sinha, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Shailesh Kumar Sinha, J.—Heard learned Counsel for the Petitioner and the State.

2. A counter affidavit has been filed on behalf of the Respondent No. 2. Keep it on record.

3. The writ application has been filed for quashing the entire proceeding arising out of Bihta P.S. Case No. 178 of 1998 registered on 1st of September 1998 for the alleged offence u/s 7 of the Essential Commodities Act. Petitioner is being prosecuted in this case for the alleged violation of the provisions of Bihar Trade Articles (License Unifications) order 1984 (hereinafter referred to as "Unification Order") for running the business of pulses without any valid license.

4. Mr. N.K. Agarwal, learned Senior Counsel appearing for the Petitioner submits that there could not be any violation under the provision of the aforesaid Unification Order, 1984 for the simple reason that the said order does not prescribe any license for running the business of pulse.

4. Learned Counsel for the State is not in a position to refute the submissions made on behalf of the Petitioner and in other words, it is not in dispute that no licence fee has yet obtained under the provisions of the aforesaid unification order so far it relates to the pulse.

5. This Court in a decision reported in 1988 PLJR 502 ( Satya Narayan Prasad v. State of Bihar and Ors.) held that in absence of license fee having been prescribed under the aforesaid Unification Order, pulses cannot be said to have been brought within the purview thereof. The aforesaid decision was followed in various decisions of this Court. This Court in case of Om Prakesh Bhartiya v. State of Bihar and Ors which was disposed of in the light of the above decision by order dated 19th of February 1992 passed in Cr. W.J.C. No. 412 of 1991.

6. In this view of the matter, it would appear that no offence is made out even if, the allegations made in the first information report is taken to be correct on the face value in its entirety.

7. In the result, this writ application is allowed and the investigation of the Bihta P.S. Case No. 178 of 1998 is hereby quashed.