
(2004) 07 PAT CK 0118
In the Patna High Court
Case No : C.W.J.C. No. 4993 of 2004

Narayan Prasad Sultania

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-07-2004

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (2004) 4 PLJR 113

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : N.K. Agrawal, for the Appellant; Navendu Kumar for the State, for the Respondent

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for issuance of a writ in the nature of mandamus commanding the respondents to release the tanker bearing Registration No. BR-123635 loaded with 12000 litres of diesel. Short facts giving rise to the present application are that the petitioner runs petrol pump in the name and style of Super Highway Service at Begusarai bearing Licence No. 31/03. His further case is that he is the owner of a tanker bearing Registration No. BR-12-3635. According to the petitioner, at the request of two dealers of Triveniganj, namely, M/s Raja Kishan Service Centre, Triveniganj and (2) Rajesh Kumar Agarwal, he lifted 6000 litres of diesel each for the aforesaid two dealers. While the tanker in question was passing through the territory of Jadia Police Station, same was seized by the Inspector of Police, Jadia Police Station on the ground that tanker having not taken the shortest route, same comes within the mischief of section 7 of the Essential Commodities Act.

2. It is the stand of the petitioner that sale purchase and movement of diesel is governed by two Orders, namely, the Bihar Motor Spirit and High Speed Diesel Oil Licencing Order and the Motor Spirit and High Speed Diesel (Regulation of Supply & Distribution and Prevention of Malpractices) Order, 1998 and those

Orders do not authorise the Sub Inspector of Police to make seizure. Accordingly, the prayer of the petitioner is to direct the release of the tanker and diesel loaded on it.

3. Mr. N.K. Agrawal, Senior Advocate, appearing on behalf of the petitioner submits that as the tanker and diesel have been seized by an unauthorised person, the article seized deserve to be released. In support of his submission he has placed reliance on a Division Bench judgment of this Court in the case of Sri Narayan Prasad @ Sri Narain Sao and Others Vs. The State of Bihar and Others, .

4. JC to SC VI appears on behalf of the respondents and he is unable to point out about any notification authorising the Sub Inspector of Police to make seizure. In that view of the matter, I have no option than to hold that the seizure effected by the Sub Inspector of Police is without any authority of law.

5. In the result, the application is allowed. The Officer-in-charge of Jadia Police Station is directed to release the tanker in question alongwith loaded 12000 litres of diesel forthwith. No. cost. Let this order be communicated by fax at the cost of the petitioner to the Collector of the district, who shall forward the same to the Officer-in-charge, Jadia Police Station.