

AA 95
26/11/14

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letter Patent Appellate Jurisdiction)

L.P.A. No. of 2014

(Arising out of the order dated 19.11.2014 passed in
C.W.J.C.No.17688 of 2014 passed by Hon'ble Mr. Justice
Jyoti Saran)

Vijay Kumar Jaiswal Petitioner/Appellant.

- Versus -

The State of Bihar & Others...

Respondents / Respondents

Sub: Letter Patent Appeal.I N D E X

Sl. No.	Particulars	Pages
1.	An appeal under Clause 10 of the Letter Patent Act.	1 to 6.
2.	Impugned order.	
3.	Vakalatnama.	

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letter Patent Appellate Jurisdiction)

L.P.A. No. of 2014

SYNOPSIS

Vijay Kumar Jaiswal Petitioner/Appellant.

- Versus -

The State of Bihar & Others...

Respondents / Respondents

SYNOPSIS

That by this writ petition the petitioner seeks following reliefs:-

- (i) For issuance of an appropriate writ in the nature of certiorari quashing the order dated 19.9.2014 by which the petitioner's tractors along with its trailer bearing registration no, BR43 B-9615 and trailer without no at that time have been confiscated even

without issuance of a notice to the petitioner in this regard and ordered to be released after submitting the cash security.

(ii) For issuance of an appropriate writ in the nature of certiorari quashing the confiscation proceeding bearing Confiscation case no 08 of 2014 by the Court of District Magistrate Madhepura as the same has been started against the petitioner without affording opportunity to the petitioner.

(iii) For declaration that the action of the respondent authorities is wholly arbitrary and not sustainable in the eye of law.

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(ii) For issuance of an appropriate writ in the nature of certiorari quashing the confiscation proceeding bearing Confiscation case no 08 of 2014 by the Court of District Magistrate Madhepura as the same has been started against the petitioner without affording opportunity to the petitioner.

(iii) For declaration that the action of the respondent authorities is wholly arbitrary and not sustainable in the eye of law.

- (iv) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the

That the petitioner is the owner of the tractor and trailer bearing its registration no BR43 B-9615 and trailer without no at that time

16.4.2014. That on 16.4.2014 an agreement was executed by one M/S Suraj Rice Mill with Bihar State Food and Civil Supplies Corporation Ltd (hereinafter referred to as Corporation) to mill the Paddy procured from District Office of the Corporation Madhepura in conformity with the Government of India.

1.8.2014. The premises of the Rice Mill has been raided by the Supply Inspector and other government officials leading to institution of FIR bearing Puraini P.S. case no 73 of 2014 and the godown of the Rice Mill has been sealed by the

respondent marketing Officer Puraini and the tractor and trailer of the petitioner has been seized.

2.8.2014. That the allegation in the FIR is that some food grains from PDS dealer has been found in the Godown which is completely baseless in view of the facts that the premises of the three said PDS dealers was inspected by the authorities concerned on 2.8.2014 and the stocks were found intact.

7.8.2014. That pursuant to the agreement M/S Suraj Rice Mill has lifted 37886.18 quintal of paddy and in lieu of the same the Rice Mill has to supply 25384.18 quintal rice by 30th September the District Manager of the State Food Corporation Madhepura directed the Rice Mill to supply the remaining rice by 30th September.

That the petitioner being the owner of the vehicle in question has given his tractor to the Rice Mill for loading and unloading the rice and paddy which was seized.

14.8.2014. That in most arbitrary manner the Godown has been sealed and the vide notice dated 14.8.2014 the confiscation proceeding was initiated against the M/S Suraj Rice Mill and others including the seized tractors and trailers.

19.11.2014 The writ petition is dismissed and hence this memo of appeal.

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letter Patent Appellate Jurisdiction)

L.P.A. No. of 2014

(Arising out of the order dated 19.11.2014 passed in
C.W.J.C.No.17688 of 2014 passed by Hon'ble Mr. Justice
Jyoti Saran)

In the matter of an appeal under
Clause 10 of the Letter Patent
Act.

A N D

In the matter of;
Vijay Kumar Jaiswal son of late Shiv Narayan Jaiswal at
and P.O. and P.S. Bihariganj District Madhepura
..... Petitioner.

Versus

1. The State of Bihar
2. The Principal Secretary Department of Food and
Civil Supply Government of Bihar New Secretariat
Patna.
3. The District Magistrate Madhepura.

4. The Sub Divisional Officer Udakishungng Madhepura.
5. The District Supply Officer Madhepura.
6. The Marketing Officer Puraini District Madhepura.
7. The Block Development Officer Puraini Madhepura.
8. The In Charge Officer Legal Cell District Madehpura.

Respondents/ Respondents.

Being aggrieved by and dissatisfied with the order dated 19.11.2014 passed in C.W.J.C.No.17688 of 2014 passed by Hon'ble Mr. Justice Jyoti Saran the appellant prefers this Memo of Appeal on amongst the following;

GROUNDS:

- (i) For that the Hon'ble Single Judge failed to appreciate the fact that the even in alternative remedy the writ can be entertained.
- (ii) For that the Hon'ble Single Judge failed to appreciate the fact that the on the ground of

principle of violation of natural justice the impugned order of confiscation is bad in law.

- (iii) For that the Hon'ble Single Judge failed to appreciate the fact that the whole confiscation proceedings vitiates in absence of notice to the appellant.
- (iv) For that the impugned of confiscation is bad in law and fit to be set aside by this Hon'ble Court.
- (v) For that the Hon'ble Single Judge erred in law that the defects in the initial order cannot be cured at the appellate stage.
- (vi) For that the Hon'ble Single Judge erred in law by holding that the appeal in terms of section 6 c of the Bihar Control Order is efficacious remedy to hear the matter afresh.
- (vii) For that the Hon'ble Single Judge failed to appreciate the fact that the tractor in question has been given to the rice mill owner and the

appellant cannot be held responsible for any offence in the facts and circumstances of the case.

- (viii) For that the Hon'ble Single Judge failed to appreciate the fact that the tractor in question was empty and it was lying only in the premises of the mill.
- (ix) For that the Hon'ble Single Judge failed to appreciate the fact that arbitrary action of the respondent appears when the notice has not been served upon the appellant by the respondent District Magistrate.
- (x) For that the Hon'ble single Judge failed to appreciate the facts that there is prima facie case in favour of the appellant.
- (xi) For that the order passed by the Hon'ble Single Judge is otherwise bad in law and fit to be set aside.

It is, therefore, prayed that your Lordships be graciously be pleased to issue notice, call for the records and after hearing the parties appeal be allowed accordingly after setting the side dated 19.11.2014 passed in C.W.J.C.No.17688 of 2014 passed by Hon'ble Mr. Justice Jyoti Saran.

And / Or

Pass any other order/orders as your Lordships may deem fit and proper in facts and circumstances of the case:

And for this the appellant shall ever pray.

C E R T I F I C A T E

It is certify that the grounds set forth above are good grounds for this Letter Patent Appeal.

My instruction is that the matter out of which this Letter Patent Appeal has never been come before this Hon'ble Court.

It is further certify that no notice of this appeal is required to be served either one the Attorney General of India or an Advocate General of Bihar under order XXVII A, Rule-1 of the Code of Civil Procedure.

Advocate for the Appellant.

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REGISTRAR GENERAL & COMMISSIONER DEPT.
PATNA - COCKE PATNA



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Rs. 0000003
375455
INDIA

JUDICIAL
22.11.2014
BIHAR

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Authorization No. 2673

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17524 of 2014

1. Madan Kumar Sah son of late Kamleshwari Prasad Sah, resident of village Hathiayanda P.S. Bihariganj District Madhepura

..... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Department of Food and Civil Supply, Government of Bihar New Secretariat, Patna
3. The District Magistrate, Madhepura
4. The Sub Divisional Officer, Udakisunganj, Madhepura
5. The District Supply Officer, Madhepura
6. The Marketing Officer Puraini District Madhepura
7. The Block Development Officer, Puraini Madhepura
8. The In Charge Officer Legal Cell District Madhepura

..... Respondent/s

with

Civil Writ Jurisdiction Case No.17553 of 2014

Veena Bharti wife of Prabash Chandra Bhaskar resident of at P.O. Kushtan P.S. Bihariganj District Madhepura

..... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Department of Food and Civil Supply, Government of Bihar New Secretariat, Patna
3. The District Magistrate, Madhepura
4. The Sub Divisional Officer, Udakisunganj, Madhepura
5. The District Supply Officer, Madhepura
6. The Marketing Officer Puraini District Madhepura
7. The Block Development Officer, Puraini Madhepura
8. The In Charge Officer Legal Cell District Madhepura

..... Respondent/s

with

Civil Writ Jurisdiction Case No.17688 of 2014

May Kumar Jaiswal son of late Shiv Narayan Jaiswal at and P.O. and P.S. Bihariganj, District Madhepura

..... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Department of Food and Civil Supply, Government of Bihar New Secretariat, Patna
3. The District Magistrate, Madhepura
4. The Sub Divisional Officer, Udakisunganj, Madhepura
5. The District Supply Officer, Madhepura
6. The Marketing Officer Puraini District Madhepura
7. The Block Development Officer, Puraini Madhepura
8. The In Charge Officer Legal Cell District Madhepura

COPY

..... Respondent/s

Appearance :

(In CWJC No.17524 of 2014)

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Adv.

For the Respondent/s : Mr. Jawahar Pd. Karn, Adv.

(In CWJC No.17553 of 2014)

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Adv.

For the Respondent/s : Mr. Roy Shivajee Nath, AG-3

(In CWJC No.17688 of 2014)

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Adv.

For the Respondent/s : Mr. P.K. Verma, AAC

**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER**

3 19-11-2014 In all these matters final orders in confiscation proceedings have been passed under Section 6A of the Essential Commodities Act, 1955 (hereinafter referred to as 'the Act') by the Collector-cum-District Magistrate, Madhubhanga.

Section 6C of the Act provides for a remedy of appeal against final orders passed in a confiscation proceeding and the petitioner shall have to exhaust the appellate remedy so available to him before invoking the extra ordinary writ jurisdiction of this Court.

The writ petition is disposed of accordingly.

Considering the nature of grievance, it is expected that any such appeal so filed by the petitioners would be considered and disposed of by the Appellate Authority expeditiously and in accordance with law.

scd/-
(Jyoti Saran, J)

Bibhash/-

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A. A. Khan
22/11/2014
09/12/19/13/2014

REMITTED TO BE FILED WITHIN
22.11.14
For Joint Registrar (J)
Patna High Court
Authorized 11/3 76 Act I of 1972

Requisition Number : CWJC/28173/2014				
Date Of Requisition	Stamp Notification Date	Stamp Deposit Date	Date of Copy Ready	Date of Copy Delivered
21-11-2014	21-11-2014	22-11-2014	22-11-2014	22/11/14

Memo Of Case	
Application Fee for Copy	Rs.0.33
Searching Fee	Rs.1.00
Extra Fee for Urgency	Rs.1.00
Folios Fee	Rs.2.20
Other Items If Any	Rs.0.00
Total	Rs.4.53
XAFDF2BAFX	

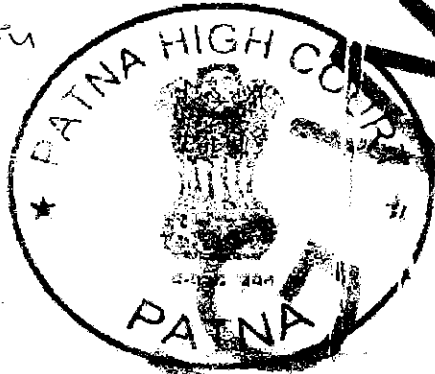
The Authentication Fee Payable Under the Court Fee Act .. Rs.2.90

Section Officer
Copying Department

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22/11/2014

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22/11/2014



COPY

AA95
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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letter Patent Appellate Jurisdiction)

I.A. no -----/2014

in

LPA. No. _____/ of 2014

Vijay Kumar Jaiswal Appellant/Petitioner.

Versus

The State of Bihar & Others Respondents.

Sub: LPA 9-A.

INDEX

Sl.No	Annexure	Particulars	Pages
1.		An application under Article 226 of the Constitution of India.	1702

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letter Patent Appellate Jurisdiction)

I.A.-----/2014

in

LPA. No. _____ / of 2014

In the matter of an application
under Article 226 of the
Constitution of India.

A N D

In the matter of;

Vijay Kumar Jaiswal son of late Shiv Narayan Jaiswal at
and P.O. and P.S. Bihariganj District Madhepura

..... Petitioner.

Versus

1. The State of Bihar
2. The Principal Secretary Department of Food and Civil Supply Government of Bihar New Secretariat Patna.
3. The District Magistrate Madhepura.
4. The Sub Divisional Officer Udakishungng Madhepura.
5. The District Supply Officer Madhepura.
6. The Marketing Officer Puraini District Madhepura.
7. The Block Development Officer Puraini Madhepura.
8. The In Charge Officer Legal Cell District Madehpura.....Respondents

To,

The Hon'ble Ms Justice Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna and her companion Justices of the said Hon'ble Court.

The humble petition on
behalf of the petitioner
above named;

Most Respectfully Sheweth:

1. That this petition is being filed with a prayer for direction upon the respondent authorities to release the tractor and trailer in question in the writ petition during the pendency of the memo of appeal.
2. That by this writ petition the petitioner seeks following reliefs:-
 - (i) For issuance of an appropriate writ in the nature of certiorari quashing the order dated 19.9.2014 by which the petitioner's tractor along with its trailer bearing registration no BR43 B-9615 and trailer without no at that time have been confiscated even without issuance of a notice to the petitioner in this regard and ordered

to be released after submitting the cash security.

- (ii) For issuance of an appropriate writ in the nature of certiorari quashing the confiscation proceeding bearing Confiscation case no 08 of 2014 by the Court of District Magistrate Madhepura as the same has been started against the petitioner without affording opportunity to the petitioner.
- (iii) For declaration that the action of the respondent authorities is wholly arbitrary and not sustainable in the eye of law.
- (iv) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case be granted to the petitioner.

3. That the petitioner craves leave to this Hon'ble Court to refer all those relevant paragraph of the writ petition at the time of hearing
4. That this petition is bonafide and in the interest of justice.
5. That the petitioner shall irreparable loss if this petition is not allowed in favour of the petitioner.
6. That the petitioner has no alternative remedy save and except to revoke the extraordinary jurisdiction before this Hon'ble Court.
7. That the petitioner has not moved earlier regarding this matter before this Hon'ble Court.

It is, therefore, prayed that your lordships may graciously be pleased to allow the petition accordingly.

And/or

Pass such other order or orders as your lordships may deem fit and

proper and in the facts and
circumstances of the case.

And for this the petitioners shall ever pray.

AFFIDAVIT

I, Vijay Kumar Jaiswal son of late Shiv Narayan Jaiswal at and P.O. and P.S. Bihariganj District Madhepura, do hereby solemnly affirm and state as follows;

1. That I am appellant in this case and as such am well acquainted with the facts and circumstances of the case.
2. That the contents of the application have been read by me and understood the same and they are true to my knowledge and belief.
3. That the statements made in paragraph No. 2,6 are true to my knowledge, those statements made in paragraph No. are true to my information derived from the records of the case and rest are by way of submissions before this Hon'ble Court.
4. That the annexures are true/photo/typed copies of their respective originals.