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**(2022) 02 PAT CK 0027**

**Patna High Court**

**Case No:** Civil Writ Jurisdiction Case No. 20516 Of 2021

Sunil Sah @ Sunil Shah

APPELLANT

Vs

State Of Bihar

RESPONDENT

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**Date of Decision:** Feb. 9, 2022

**Acts Referred:**

- Essential Commodities Act, 1955 - Section 7

**Hon'ble Judges:** Sanjay Karol, CJ; S. Kumar, J

**Bench:** Division Bench

**Advocate:** Prakritika Sharma, Sanjeev Kumar, S. Raza Ahmad

**Final Decision:** Disposed Of

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### **Judgement**

Heard learned counsel for the parties.

Petitioner has prayed for following reliefs:-

â€œ I. To issue an appropriate writ/s order/s direction/s for quashing the impugned order dated 12.08.2019 passed in case No.58/2019, whereby and

under confiscation proceeding has been initiated and a direction has been given to the respondent no.5 for auction of food grains of the petitioner.

II. To issue an appropriate writ/s order/s direction/s for release 31 bags of rice and 10 bags of wheat total 41 bags each containing approx 50 kg of

food grains in favour of the petitioner because it has been illegally seized by the respondent no.9 and 10 causing a serious financial loss of the petitioner.

III. For further this Honâ€™ble court may adjudicate and hold that regarding pre-trial illegal detention of the abovementioned food grains of the

petitioner, because the petitioner is the valid owner of the said goods, has been seized in connection with Rajpur P.S. Case No. 11/2019 dated

11.01.2019 under the provisions of Section 7 of Essential Commodities Act, is impermissible in the eyes of law as the same would amount to pre-trial punishment.

IV. For further the Honâ€™ble Court may adjudicate and hold that petitioner is entitled for the release of the said seized articles along with the suitable compensation.

V. For further award the cost of litigation and suitable compensation with interest for the loss and damages caused to the petitioner because the latches and high handedness of the respondents detaining / seized the goods of the petitioner for no reasons but the petitioner is suffering a high financial loss by the act of the respondent.

VI. For further award any other relief or reliefs for which the petitioner is found entitled in the facts and the circumstances of the case.â€™

After the matter was heard for some time, learned counsel appearing on behalf of the petitioner, under instructions, states that petitioner may be permitted to prefer an appeal against the impugned order before the Appellate Authority.

Permission granted.

Learned counsel for the respondents states that if such an appeal is preferred within a period of four weeks from today, the issue of limitation, if any,

shall neither be raised nor allowed to come in the way of adjudication of the appeal on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following mutually agreeable terms:-

(a) Petitioner is permitted to prefer an appeal within a period of four weeks from today;

(b) In the event of appeal being preferred within a period of four weeks from today, the issue of limitation shall not come in the way of adjudication of the appeal on merits;

(c) Opportunity shall be granted to the parties to place on record all essential documents and materials, if so required and desired;

- (d) Petitioner through learned counsel undertakes to fully cooperate and not take unnecessary adjournment;
- (e) The Appellate Authority shall decide the appeal on merits, in compliance of the principles of natural justice;
- (f) The Appellate Authority shall pass a reasoned and speaking order, within a period of eight weeks from the date of filing of the appeal;
- (g) Copy of the reasoned and speaking order passed by the Appellate Authority shall be supplied to the parties;
- (h) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;
- (i) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;
- (j) We have not expressed any opinion on merits and all issues are left open;
- (k) Liberty reserved to the petitioner to challenge the order, before the appropriate forum, if required and desired.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.