(1987) 07 MAD CK 0036

In the Madras High Court

A. Kuthalinga Mudaliar APPELLANT

Vs

The District Supply Officer and Another RESPONDENT

Date of Decision : 08-07-1987

Acts Referred:

Essential Commodities Act, 1955 — Section 7, 7(1)

Citation : (1988) CriLJ 1401

Hon'ble Judges : V. Ramaswami, J;Bellie, J

Bench : Division Bench

Judgement

V. Ramaswami, J.—The facts leading to the filing of this writ appeal are as follows:

The appellant is a Rice Mill owner. On the ground that there were certain irregularities in the maintenance of accounts, action was taken against the

appellant under the Tamil Nadu Paddy and Rice (Regulation of Trade) Order, 1974. On 16-2-1977, the Inspector of Police, Food Ceil, seized 11

bags of soaked paddy, 4 bags of raw paddy and 80 kgs. of boiled rice from the appellant''s mill as unaccounted stock found on that date. One

Sudalaiandi claiming to be the owner of all these seized stock filed a petition stating that on 16-2-1977, he entrusted 15 bags of raw paddy for

hulling and left the stock at the Mill, that he went to the Mill on 18-2-1977, for collecting the rice and at that stage he came to know of the seizure

of the above stock by the Inspector of Police, Food Cell and he prayed for the return of the seized stock. Both the miller and the claimant were

served with notices and after hearing them, the District Revenue Officer, Tirunelveli in his proceedings dated 5-4-1977 held that the miller, the

appellant herein, has contravened Clause 8 of the Tamil Nadu Paddy and Rice (Regulation of Trade) Order, 1974, and it is punishable u/s 7 of the

Essential Commodities Act, 1955. He also held that the delinquent was liable for prosecution under that provision for contravention. However,

taking a lenient view, he ordered the confiscation of the goods seized on 16-2-1977. He also instructed the Inspector of Police, Food Cell,

Shencottai, to drop further proceedings initiated for prosecution for contravention of the provisions of the Tamil Nadu Paddy and Rice (Regulation

of Trade) Order, 1974, and the provisions of the Essential Commodities Act, 1955. As against this order, an appeal was filed before the District

Court. Tirunelveli in C.A. 176 of 1977. When that appeal was pending, the District Supply Officer Tirunelveli, took proceedings under the Rice

Milling Industry (Regulation) Act, 1958 and framed the following charges:

That there was an unaccounted stock of 11 bags of soaked paddy and 4 bags of raw paddy and 80 kgs. of boiled rice in the rice mill, which is in

contravention of Rule 9(i) of the R.M.I. (R & L) Rules, 1959, publishable u/s 7(1) of the Act. The licensee is directed to show cause as to why the

security deposit should not be forfeited and the licence cancelled.

The licensee was asked to explain within a period of seven days from the date of the notice. He replied to that notice on 14-7-1977, stating that an

appeal against the order of the District Revenue Officer, dated 5-4-1977 filed under the Essential Commodities Act and the Tamil Nadu Paddy

and Rice (Regulation of Trade) Order, 1974 is pending and that he will be able to file his explanation after the case before the District Court is

disposed of. He added that, he may be granted 15 days time to file his explanation. Obviously at that time he was under the impression that the

appeal before the District Court may be over and hence prayed for 15 days time. Without any further communication to the appellant, on 26-9-

1977, the District Supply Officer, after noting that the appellant has not submitted his explanation, suspended the licence for a period of six months.

The appellant preferred an appeal to the District Revenue Officer who also confirmed the same by his order dated 10-1-1978. It is under these

circumstances, the writ petition was filed praying for the quashing of the order of the District Revenue Officer, and the District Supply Officer. The

learned Judge, who heard the writ petition, dismissed the same on the ground that since the appellant has failed to bring the said quantity of paddy

and rice in the registers which he had to maintain under the Tamil Nadu Paddy and Rice (Regulation of Trade) Order and though a show cause

notice was issued he had not submitted his explanation, the writ petition is liable to be dismissed. With great respect to the learned Judge, we are

unable to agree with his view. Actually, the District Supply Officer has not found that the registers have not been maintained in accordance with the

Rice Milling Industry (Regulation) Act, 1958, or the rules framed thereunder. He simply proceeded on the assumption that the appellant has not

submitted his explanation to the show cause notice and, therefore, he shall be deemed to have not maintained the accounts in proper form. We

may also point out that there is no specific finding in the order of the District Supply Officer that the records were not maintained in accordance

with the rules. It is true that the order made under the Tamil Nadu Paddy and Rice (Regulation of Trade) Order, 1974 was with reference to an

offence committed under Clause 8 of the said Order which is for not maintaining proper accounts. As already stated, no punishment was given and

no prosecution was directed to be taken and therefore, there was no occasion for the appellant to show that he was maintaining the accounts

properly. Since the owner of the paddy came and claimed and stated that he had left the paddy on the previous day and the owner had appealed

against that order, there was no occasion for the appellant also in those proceedings taken under the Tamil Nadu Rice and Paddy (Regulations of

Trade) Order to prove that he was maintaining account regularly and that he had not contravened any of the provisions. Even in the appeal, the

District Revenue Officer had not considered any material on which he could come to the conclusion that the registers were not maintained in

proper form except to say that there was no explanation within he time granted in the notice. We are unable to agree that the offence of not

maintaining the accounts has been established. However, we may also point out that it is not correct to state that the appellant had not submitted

his explanation. He has prayed for time for submitting explanation on the ground that the appeal is pending in regard to the earlier proceedings

taken. Either the District Supply Officer should have intimated that he will not wait for the disposal of the appeal and directed him to file his

explanation or issued another show cause notice asking him to appear for an enquiry and produce all the records relevant to the enquiry. That not having been done, we are of the view that the principles of natural justice have been grossly violated in the case. We are at a loss to see how this

matter was treated as a technical question without going into the real merits of the case by the authorities concerned. In the circumstances, we

allow the writ appeal and set aside the order of the learned Judge and that of both the District Revenue Officer and the District Supply Officer.

However, it will be open to the District Supply Officer, if he considers it necessary, to issue a fresh notice asking the appellant to show cause and

giving him an opportunity to explain the charge already framed by him and dispose of the matter afresh on merits. There will be no order as to

costs.