

(2003) 05 DEL CK 0128
In the Delhi High Court
Case No : Civil Writ No. 1639 of 1981

Amir Chand Kesar Chand and Others	Vs	APPELLANT
L.D. Gupta, Collector and Others		RESPONDENT

Date of Decision : 08-05-2003

Acts Referred:

Citation : (2003) 5 AD 152 : (2003) 105 DLT 217

Hon'ble Judges : S.K. Mahajan, J

Bench : Single Bench

Advocate : Nem, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Mahajan, J.—In the morning an advocate appeared on behalf of the petitioner and requested for a pass over on the ground that the counsel who was to argue the matter was busy in another Court. Despite the matter having been passed over twice, no one has appeared for the petitioner or for the respondent and I have, Therefore, proceed to decide this petition in the absence of the parties.

2. On 12.8.1980, the Special Cell of Crime Branch and officials of the Food and Supplies department conducted raid at the premises of the petitioner and found 41 bags of Khandsari and 9 bags of Boora stored therein. At the relevant time a dealer could not possess or store more than a specified quantity under the Licensing Order issued under the provisions of Essential Commodities Act. The appellant had no license to store such quantity of sugar in the premises. A case u/s 7 of the Essential Commodities Act was registered and after giving show cause notice to the petitioner, the Collector, Food and Supplies passed an order directing the confiscation of the stock of 41 bags of Khandsari and 9 bags of Boora and ordered the same to be disposed of by public auction.

3. The order dated 10.3.1981, passed by the Collector, Food and Supplies was challenged by filing an appeal before the District and Sessions Judge, Delhi. By

the impugned order the learned Additional District Judge dismissed the appeal. While dismissing the appeal, it was held that sugar included Khandsari and Boora and the same would be deemed to have been covered by the exhaustive definition of "Sugar" given in the Licensing Order. It was held that as the petitioner was covered by the definition of dealer in free sale sugar given in the Licensing Order, he was bound to take license under the aforesaid provision and as the sugar was stored without such license, he had contravened the provisions of the Licensing Order read with Section 3 of the Essential Commodities Act. To the argument of the petitioner that the entire quantity of Khandsari and Boora should not have been confiscated as there was no guilty mind of the petitioner, the Learned Additional District Judge held that the purpose of issuing the Licensing Order under the Essential Commodities Act was to ensure that the sugar was not hoarded and in case there was no such control on sugar, the people would have the tendency to hoard as much quantity as they like and the same would adversely affect not only the distribution but also the price of sugar. The learned Additional District Judge, however, agreed that it is only the quantity of sugar which exceeded the permissible limits under the Control Order that could have been confiscated and the entire quantity recovered at the time raid was not required to be confiscated. The appeal of the petitioner was partly allowed and that quantity of Khandsari and Boora, which was in excess of 10 quintals was directed to be confiscated.

4. While deciding this petition, the Court is not sitting as the Court of appeal over the order of the learned Additional District Judge passed in exercise of his appellate jurisdiction, under the Essential Commodities Act. It has not been shown as to how the order passed by learned Additional District Judge is either against the provisions of the Licensing Order or is otherwise illegal. No error apparent on the face of the order has also been shown to the Court. Moreover, the perusal of the order shows that the learned Additional District Judge had duly taken into consideration the arguments advanced by the petitioner and the findings that the petitioner could not store more than the quantity fixed under the Control Order, in my opinion, are correctly based on facts of the case. There is no error of jurisdiction or illegality in the impugned order, which may call for interference by this Court. The petition has no merits and is, accordingly, dismissed.