
(1996) 12 CAL CK 0017
In the Calcutta High Court
Case No : Civil Order No. 3095 of 1996

Bhoirab Chandra Shaw

APPELLANT

Vs

The State of West Bengal

RESPONDENT

Date of Decision : 18-12-1996

Acts Referred:

Essential Commodities Act, 1955 — Section 5, 7

Citation : (1998) 1 ILR (Cal) 496

Hon'ble Judges : Satyabrata Sinha, J

Bench : Single Bench

Advocate : Swapan Banerjee, for the Appellant; Hasi Ghosh Sinha, for the Respondent

Judgement

Satyabrata Sinha, J.—Keeping in view the fact that the Petitioner has been granted licence for carrying on business. He must be permitted to carry on such business including movement of goods, but as his area of business excludes the statutory rationing area. There cannot be any doubt that although movements of goods would be permissible, loading and unloading of any food-grains is not permissible as the same does not involve transportation and/or movement of goods. If it is found that the Petitioner is carrying on any business in the statutory rationing area, he may be prosecuted for violation of the condition of licence and action may also be taken for cancellation of his licence. It may be noticed that the learned Counsel for the State has accepted the fact that there is no control order restricting movement of any goods even in statutory rationing area. The learned Counsel for the State, however, has drawn my attention to the West Bengal Rice (Restriction) Movement Order, 1977. Paragraph 3 of the said order reads "no person shall transport any rice into or out of any area in which West Bengal Rationing Order, 1964 is for the time being in force, except under or in accordance with a permit granted by the Controller". The said order has been made by the State in exercise of power conferred upon it by reason of the notification mentioned therein read with Section 5 of the Essential Commodities Act. Violation of the said order would attract penal provision as contained in

Section 7 of the Essential Commodities Act and thus, the same should be construed strictly. A person who is carrying on business under a due licence is required to purchase rice and for that purpose, he may have to import the same either from a place within a State or outside the State. Unless there exists any restriction, the movement of any commodity through out India is permissible. Paragraph 3 of the aforementioned order clearly states that prohibition is confined only to transport of rice into or out of any area which means that nobody is entitled to bring in any rice within the statutory rationing area or take them out of it. Paragraph 3 of the said order read as a whole, in my opinion, cannot be construed to mean that although act of loading or unloading from truck or any other vehicle does not take place within the statutory rationing area still he has to obtain a permit from the Collector. A law as is well known has to be construed reasonably. If any dealer intends to import rice from a far away place, owner of driver of the truck is not supposed to know as to which are the statutory rationing areas, so as to make him liable to stop his truck before he enters into the territory of the statutory rationing area, files an application for obtaining permit and moves again in the event such permit is granted.

2. In that view of the matter, I am of the opinion that para. 3 must be construed reasonably so as to apply to cases where rice is transported only into or out of the statutory rationing area, that means, no loading or unloading shall take place therefrom; but if a movement takes place without any act of loading or unloading through statutory rationing area, the same cannot be said to be prohibited in terms of the aforementioned order.

3. In this view of the matter this application is disposed of with the aforementioned observations and directions.

Liberty is given to the learned Counsel for the parties to take down the gist of this order and communicate the same to the concerned Respondents.