
(2007) 03 RAJ CK 0054
In the Rajasthan High Court

D. Gautamchand Bhandari

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 02-03-2007

Acts Referred:

Citation : (2007) 4 RLW 3415

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Judgement

Ashok Parihar, J.—Since on same set of facts almost similar relief has been sought, challenging the common order dated 9.3.1999, passed by the District Collector, as per directions of Hon"ble the Chief Justice on 17.12.1999 in SB Civil Writ Petition No. 3105/1999, all the above writ petitions and criminal revision petitions have been heard together and are being decided by this common order.

2. With the object of fighting the evil of hoarding and black marketing and such offences various Control Orders including the Rajasthan Trade Articles (Licensing & Control) Order 1980 and the Pulses (Storage Control) Order, 1977 were framed by the State Government. For establishing Warehouses a separate enactment in the same of Rajasthan Warehouse Act, 1958 has also been passed by the State Legislature. Under the above Control Orders read with the provisions of Essential Commodities Act, 1955 necessary action was taken against one of the petitioners - M/s. Om Industries by the Enforcement Officer and about 12947 bags of various pulses, which were illegally and unauthorisedly stored, were seized by the authorities from the godown of the above M/s. Om Industries. Subsequently, application was submitted before the District Collector for confiscating the bags so seized. As per information given notices to respective parties were also issued to find out actual truth. After giving opportunity of hearing and considering the entire record, the District Collector, vide order dated 9.3.1999, ordered for confiscation of 11,770 bags of pulses seized from the godown of above company M/s. Om Industries. The claim of various firms, some of whom are also petitioners before this Court, in regard to their respective bags stored in the

above godown were rejected by the District Collector.

3. Aggrieved by the above order dated 9.3.1999, some of the petitioners preferred criminal appeals before the District Judge and others sought remedy directly before this Court by way of writ petitions. Some of the writ petitions are also offshoots of either the order passed by the District Judge or the interim orders passed by this Court. The Criminal Revisions have been preferred against the order of the District Judge, by which, criminal appeals filed by respective parties have been dismissed or partly allowed as also the order of the District Collector, by which, order of confiscation has been made. The State of Rajasthan has preferred writ petitions against the orders of District Judge by which some criminal appeals have been allowed.

4. Learned Counsel for the petitioners submitted that necessary entries had already been made in the registers of the godown in question and the respective parties had submitted proper proof of their bags of pulses stored in the godown, as such, there was no justification in confiscating the entire goods seized from the godown. Learned Counsel for the petitioners also alleged that all the parties had valid licence of trade and storage in their favour, as such, there was no question of confiscating their goods in the present matter.

5. Mr. R.S. Rathore, learned Additional Advocate General, on the other hand, submitted that looking to gross irregularities committed by the above company M/s. Om Industries, considering the large scale hoarding of pulses the authorities were justified in confiscating the goods so stored illegally and without proper licence and permission.

6. After hearing learned Counsel for the parties, I have carefully gone through the material on record.

The provisions of various Orders framed by the State Government and the Central Government have not been disputed so far. It is also not disputed that M/s. Om Industries was a registered dealer having licence from the Licensing Authority, Jaipur and its godown F-95, Vishwakarma Industrial Area, Road No. 7, Jaipur was declared as recognised godown. However, as per the licence so issued, there have been various conditions imposed therein. The above company was not authorised to store goods of other traders in the godown. Even the other traders could not have stored their goods in the godown of M/s. Om Industries without prior permission of the authorities concerned. The godown of M/s. Om Industries also cannot be treated as a Warehouse since no such licence was issued to the above company i.e. M/s. Om Industries under the Rajasthan Warehouse Act. Various conditions and restrictions have been provided under the above Act, However, since the Godown of the above company was never authorised under the Act to work as Warehouse, the plea of the party in this regard cannot be accepted.

7. Every trader is issued proper licence of trade, business and storage of particular pulses by the local authorities. Godowns have to be identified and

recognised. The pulses cannot be stored by a trader at any other place without prior permission of the local authorities of the area in question. As has come on record, large scale storage was made by various traders in the godown of M/s. Om Industries without permission of the authorities concerned. The District Collector, in his detailed order, has referred to various irregularities manipulations and fabrication committed by the above company while storing the articles of other traders without proper maintenance of record as also prior permission of the authorities concerned.

8. That apart, even as per pleadings of respective parties in the above writ petitions and criminal revisions, since there are serious disputes in regard to quality, quantity and identification of the goods claimed by respective parties, such disputes cannot be resolved by this Court either under writ jurisdiction or even revisional jurisdiction.

9. In view of detailed reply filed on behalf of the respondents-State in SB Civil Writ Petition No. 2947/2000 "D Gautamchand Bhandari v. State of Rajasthan and Ors." since, after due consideration, proper discretion has been used by the District Collector in passing the impugned order of confiscation, considering the aims and objects of the Control Orders framed by the State Government as also Central Government, I find no ground for any further interference of this Court in the order passed by the District Collector either in the writ petitions or the criminal revision petitions. The writ petitions and the criminal revision petitions filed by the individual petitioners are dismissed accordingly as having no merits. The writ petitions filed on behalf of the State of Rajasthan challenging the order of the District Judge are allowed while maintaining the impugned order passed by the District Collector.