
(1978) 01 RAJ CK 0012

In the Rajasthan High Court

Case No : Civil Writ Petition No. 766 of 1976

Dayal Chand and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 13-01-1978

Acts Referred:

Constitution of India, 1950 — Article 226
Essential Commodities Act, 1955 — Section 6A, 6C

Citation : (1978) RLW 42 : (1978) 11 WLN 3

Hon'ble Judges : M.L. Joshi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

M.L. Joshi, J.—In this petition, the petitioner seeks to pray for quashing the order of the learned Additional Sessions Judge, Sri Ganganagar dated 2-3-76 affirming the order of the learned Collector, Sri Ganganagar dated 15 7-1975 which in its turn had approved the order of the S.D.O. dated 3-1-1975, in the alternative it has been prayed that if the petition under Article 226 is not held to be maintainable, then the petition may be treated as revision. The petitioner has brought this composite petition as there was divergence of opinion prevailing amongst the various High Courts on the point as to whether a writ petition or revision will lie against the order of the Additional Sessions Judge passed u/s 6C of the Essential Commodities Act. The controversy has now been set at rest by the latest pronouncement of the Supreme Court in *Thakur Das (Dead) by Lrs. Vs. State of Madhya Pradesh and Another*, wherein it has been held that the revision application will lie against the order of the Sessions Judge. Their lordships have laid down that when the Sessions Judge was appointed an Appellate Authority by the State Government u/s 6C of the Essential Commodities Act he was constituted Appellate Authority in the Sessions Court over which Sessions Judge presides. It was further observed that the Sessions Court is constituted under the Code of Criminal Procedure & indisputably it is an inferior court in relation to the High Court. Therefore, revision will lie against the order made by the

Sessions Judge in exercise of powers conferred by Section 6C. It was further held that in such cases the Sessions Court is not a persona designate. It is therefore now clear that revision does lie against the order of the Collector passed u/s 6A of the Essential Commodities Act under the new CrPC. Once it is held that the revision lies then it is well settled that there will be no scope for entertaining writ petition. Accordingly this petition is being treated as a revision.

2. The Enforcement Inspector of the District Supply Office on 1-1-75 and 2-1-75 inspected the premises of the petitioner's Firm which held a licence under the Food Grain Dealers' Licensing Order 11-64. According to the Enforcement Inspector, the petitioner's Firm had stored goods in excess of the quantities shown in its stock register. The S.D.O. therefore, cancelled the petitioner Firm's licence and forfeited the security money of Rs. 500/- to the Government. The Firm preferred an appeal before the Collector, Sri Ganganagar. At the same time the S.D.O. referred the case to the Collector Sri Ganganagar for initiating proceedings for the confiscation of the food grains. The Collector after completion of the enquiry ordered the confiscation of the food grains referred to above u/s 6A of the Essential Commodities Act. Being aggrieved, the petitioner's Firm went in appeal before the learned Sessions Judge, Sri Ganganagar who transferred the case to the Additional Sessions Judge. The appeal before the Additional Sessions Judge did not succeed and the same was dismissed by his order dated 2-3-76. It is against this order that I am called upon to decide this revision.

3. The revision can be disposed of on a very short point. The Collector while issuing show cause notice against confiscation of food grains has specified one ground viz., that the petitioner's Firm had stored the goods in excess of the quantities shown in the stock register. No further ground was specified so as to give notice of the allegation accusation to the petitioner's Firm. The courts below did not find an excess quantities of grains stored by the petitioner's Firm as alleged in the notice. Indeed, the quantities of food grains stored by the petitioner's Firm were in conformity with the entries recorded in the stocks register. Both the learned Collector and the Additional Sessions Judge, however evolved an entirely new case to the effect that the petitioner's Firm had stocked the food grains in a godown not specified in his licence. Needless to say that no prior notice of this charge was given to the petitioner's Firm. Much less the petitioner was afforded opportunity to put in its defence or explanation to this charge.

4. Learned Counsel for the petitioner strenuously contended that both the courts below have fallen in to grave error as they have confiscated the goods on the charge which was never levelled against the petitioner. His contention is that the godown in regard to which exception has been taken in the orders of both the courts is in fact specified in the petitioner's licence and it appears that this fact, has escaped the notice of both the courts below. He has further urged that if the petitioner would have been given opportunity of putting in his defence or explanation and had been afforded opportunity of being heard he would have

satisfied both the courts below that the godown in which food grains were found at Hanumangrah was the godown which already stood specified in the licence. In this connection my attention has been drawn to the certified copy of the licence which is on the record. In the licence, one godown at HMH has been specified in the licence which according to the petitioner clearly signifies that the godown is situated at Hanuman Garh Junction. This is a fact which needs to be investigated. In absence of any opportunity of being heard the petitioner has been seriously prejudiced as he was never afforded opportunity in regard to charge for which he has been punished. Both the orders of the Collector and the Addt. Sessions Judge, therefore, are invalid being in violation of the principles of natural justice.

5. I accordingly allow this revision petition and set aside the order of the Additional Sessions Judge as well as the order of the learned Collector and send the case back to the learned Collector and direct him to serve him the specific charge in respect of which he seeks to confiscate the food grains of the petitioner stocked in the godown situated at Hanuman Garh Junction and afford opportunity of being heard on this point and thereafter decide the matter afresh according to law.