
(1985) 03 AHC CK 0005

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 1850 of 1985

Govind Prasad and Co.

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 18-03-1985

Acts Referred:

Essential Commodities Act, 1955 — Section 3, 6A, 6C(2), 7

Citation : (1985) ACR 150

Hon'ble Judges : S.K. Mookerji, J;S.K. Dhaon, J

Bench : Division Bench

Advocate : Ratnakar Bharti, for the Appellant;

Judgement

S.K. Dhaon, J.—The principal relief claimed in this petition is that this Court may issue a writ of mandamus directing the Additional District Magistrate (Civil Supplies), Agra to release forthwith the goods seized from the premises of the Petitioner Firm.

2. It appears that in pursuance of the provisions contained in Section 6-A of the Essential Commodities Act, 1955 certain stocks of Gur and Vanaspati were seized from the premises of the Petitioner Firm. The proceedings u/s 6-A of the Act were initiated and an order of confiscation was passed. An order for the sale of the commodity seized was also passed. It appears that the Petitioner preferred an appeal against the order of confiscation and in that appeal it obtained an interim order to the effect that the goods may not be sold. According to the Petitioner, the appeal is still pending before the State Government and, therefore, the interim order passed therein also continues to exist. In the meanwhile a prosecution of the Petitioner was launched u/s 7 of the Act on 5th September, 1984. The Special Judge (Economic Offences)Agra, in Criminal Case No. 21 of 1984 held that the Petitioner was not guilty of an offence punishable u/s 3/7 of the Essential Commodities Act. He accordingly acquitted the Petitioner. On 13th February, 1985 the Standing Counsel prayed for and was granted 3 weeks time to file counter-affidavit. No counter affidavit has been filed till date.

We have, therefore, to proceed on the assumption that the averments made in the writ petition are correct.

3. The provisions of Section 6-C(2) of the Act are clear and explicit. They provide that where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been passed u/s 6-A the person concerned is acquitted, then the goods seized should be either returned to the person concerned in their original form or the price thereof together with some interest should be paid to the owner of the goods. In the instant case the Petitioner having been acquitted, the goods not having been sold and the same being still in the custody of the authorities concerned, the Petitioner is entitled to receive back its goods. The Respondents have no discretion in the J matter except to release the goods. We accordingly direct the State of Uttar Pradesh, Respondent No. 1, and the Additional District Magistrate (Civil Supplies), Respondent No. 3, to release the goods seized from the premises of the Petitioner within a period of two weeks from the date of the production of the certified copy of the order passed by this Court by the Petitioner before the relevant authorities. In case the goods seized from the premises of the Petitioner have been sold, the Respondents shall pay to the Petitioner the price thereof together with interest as stipulated in the provisions contained in Section 6-C(2) of the Essential Commodities Act, 1955.

4. With these observations the writ petition stands disposed of finally. There will be no order as to costs.

5. A copy of this order may be supplied to the learned Counsel for the Petitioner on payment of usual charges within 48 hours.

Ordered accordingly.