
(1984) 03 PAT CK 0018

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 375 of 1983

Jai Kishun Sah and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-03-1984

Acts Referred:

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

Citation : (1988) PLJR 606

Hon'ble Judges : Ram Nandan Prasad, J; Nagendra Prasad Singh, J

Bench : Division Bench

Advocate : G.C. Bharuka, Navamti Prasad Singh, Ashok Kumar Jain and Rakesh Kumar, for the Appellant; Ramanand Kumar and Harendra Nath Ojha, for the respondents 1 and 2, for the Respondent

Judgement

Nagendra Prasad Singh and Ram Nandan Prasad, JJ.—This writ application has been filed on behalf of the petitioners for quashing an order dated the 24th October, 1983, passed by the learned District Magistrate, Vaishali, while exercising power u/s 6A of the Essential Commodities Act, 1955 (hereinafter referred to as "the Act"). By the aforesaid order, the learned District Magistrate has confiscated bags of maize, wheat, gram, rice, etc. which had been seized from the business premises of Ram Babu Sab (respondent No. 3) on the 17th August, 1982, by a raiding party. It appears that on the aforesaid date, an inspection was made of the business premises of aforesaid Ram Babu Sah who happens to be the brother of the two petitioners. None was present at the shop which was closed. Thereafter, two adjacent shops belonging to the petitioner were also inspected. Thereafter, the seizure aforesaid was made of maize, wheat, gram, rice, etc., because according to the raiding party, there had been contravention of the provisions of the Act. After search and seizure, a police case was instituted against Ram Babu Sah (respondent No. 3) for an offence u/s 7 of the Act. A confiscation proceeding was also initiated against the said Ram Babu Sah and a notice was issued directing him to show cause as to why the bags of food grains, mentioned above, be not confiscated. Ram Babu Sab appeared and

filed a show cause saying that the bags of maize, wheat, rice, etc., which had been seized did not belong to him, rather they belonged to the petitioners. The petitioners also appeared before the learned District Magistrate and prayed for release of the food-grains which had been seized. The learned District Magistrate, on a consideration of the materials, confiscated the seized foodgrains by the impugned order.

2. So far as the police case is concerned, it was investigated and, ultimately a final report has been submitted on the order of the Superintendent of Police saying "Mistake of Law". A copy of the final report has been annexed to the writ application and marked as Annexure 1. On the 20th January, 1983, the learned Chief Judicial Magistrate, before whom the said final report was submitted, accepted the said report and discharged the accused, that is, Ram Babu Sah (respondent No. 3). In the present writ application, it was submitted that in view of the final report and discharge of Ram Babu Sah against whom the case had been registered from an offence u/s 7 of the Act, Ram Babu Sah is entitled to the return of the seized essential commodities or price thereof in terms of sub-section (2) of section 6C of the Act. Sub-section (2) of section 6-C is as follows:

Where an order u/s 6-A is modified or annulled by such judicial authority, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made u/s 6-A, the person concerned is acquitted, and in either case it is not possible for any reason to return the essential commodity seized, such person shall, save as provided by sub-section (3) of section 6-A, be paid the price therefor as if the essential commodity had been sold to the Government with reasonable interest calculated from the day of the seizure of essential commodity and such price shall be determined--

xx xx xx

On a plain reading of the aforesaid sub-section (2) of section 6-C of the Act, it appears that after the person against whom a prosecution is instituted is acquitted, then either the essential commodity seized has to be returned to him or the price in respect thereof has to be paid to such a person in terms of that sub-section. Learned Counsel, appearing for the State could not challenge the statements made in this writ application which are supported by copies of the relevant documents. As such, we are left with no option but to hold that Ram Babu Sah (respondent No. 3) is entitled to the return of the confiscated articles which were seized from his premises on the 17th August, 1982. If the articles which had been seized have been sold, then the price of those commodities should be paid to Ram Babu Sah in terms of sub-section (2) of Section 6-C within a month from the date of the production of this order. We make it clear that although this writ application has been filed on behalf of the petitioners who happen to be the brothers of respondent No. 3 Ram Babu Sah, we do not consider it necessary to decide the question whether the seized articles belonged to the petitioners. They have been treated to belong to Ram Babu Sah (respondent No. 3) by the authorities concerned. The petitioners have no

objection even if the seized articles or the price thereof are given to Ram Babu Sah, the brother of the petitioners. This writ application is, accordingly, allowed. There will, however, be no order as to costs.