

(2001) 07 PAT CK 0002
In the Patna High Court
Case No : C.W.J.C. No. 7552 of 1991

Kailash Chand and Company

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 27-07-2001

Acts Referred:

Essential Commodities Act, 1955 — Section 6A(5), 7

Citation : (2001) 3 PLJR 698

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : N.K. Agrawal and K.C.K. Sinha, for the Appellant; Dilip Kumar, for State, for the Respondent

Final Decision : Dismissed

Judgement

Radha Mohan Prasad, J.—In the writ petition, Petitioner prays for direction to the Respondents for payment of the price of the goods seized as per the seizure list, contained in Annexure-1.

2. It is submitted that on 15.12.1977 on inspection different kind of commodities were seized, the details of which are mentioned in Annexure-1, and a criminal case was also instituted u/s 7 of the E.C. Act. 1955. The said case resulted in acquittal of the proprietor of the firm and its employees vide judgment and order contained in Annexure-4. Thereafter, the Petitioner moved an application before the Collector, Patna u/s 6A(5) of the E.C. Act for return of the goods or if sold for refund of the amount. The said application has been rejected vide order dated 7.6.1989, contained in Annexure-5, on the ground that the liability of the State to pay can be established only if it is found that some Officers or agency of the State is guilty for delay in disposal of the seized goods resulting in its decay. According to the Collector the order for disposal was passed by him but the same was stayed by the learned District Judge. Subsequently, the appeal was dismissed by the learned District Judge and the Petitioner came to this Court where also he failed in getting redressal of his grievance in the writ petition filed

by him. It appears that after disposal of the criminal case on 23.3.1984 the Petitioner woke up and filed application which resulted in decay of the seized goods. Thus, the District Judge has dismissed the aforementioned application filed by the Petitioner.

3. It is submitted by Mr. Agrawal, learned Counsel appearing for the Petitioner that it is true that there was an order of stay passed by the learned District Judge, but after dismissal of the matter by the learned District Judge, the authority should have been disposed of the seized goods and deposited the amount, but this having not been done, the Petitioner cannot be made to suffer after his acquittal in the criminal case.

4. Learned Counsel for the State, on the other hand, has submitted that nothing has been brought on record to show that the authorities were responsible for delay in disposal of the Seized goods. In fact, after disposal of the writ petition filed by the Petitioner in this Court, the Collector gave order for disposal of the seized goods but as they were found unfit for human consumption on the basis of technical expert chemical report the same could not be sold and the price for the same could not be collected. As such, according to the learned Counsel for the State in view of the stay order passed by the District Judge, the authorities cannot be held responsible for non-disposal of the seized goods.

5. This Court finds substance in the submission of the learned Counsel for the State. In fact, the Collector had already passed order for disposal of the goods earlier but the Petitioner filed appeal before the District Judge in which District Judge stayed the order of the Collector for disposal of the seized goods. Thereafter, the Petitioner further delayed the matter by agitating his grievance before this Court in the writ petition by which time the seized goods were found unfit for human consumption on the basis of technical expert chemical report and as such, the same could not be sold. Thus, from the facts aforementioned it is clear that the Petitioner himself is responsible for non-disposal of the seized goods at appropriate time. Under such circumstances, in my opinion, the Collector has rightly rejected his aforementioned application filed u/s 6A(5) of the Act and this Court does not find any infirmity in the same.

6. The writ application is, thus, dismissed.