
(1994) 01 KAR CK 0001
In the Karnataka High Court
Case No : W.A.No. 2632 of 1993

Mahenderkumar Pawankumar

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 07-01-1994

Acts Referred:

Karnataka Essential Commodities Licensing Order, 1986 — Section 6 A

Citation : (1994) ILR (Kar) 304 : (1994) 2 KarLJ 357

Hon'ble Judges : S.B. Majmudar, C.J.;K.B. Navadgi, J

Bench : Division Bench

Advocate : T. Basavaraj, for the Appellant; A.M. Farooq, for the Respondent

Final Decision : Dismissed

Judgement

S.B. Majmudar, C.J.—In this Writ Appeal the rejection of the challenge made to the Constitutional validity of Clause 14(d) of the Karnataka Essential Commodities Licensing Order, 1986 is challenged. Two grievances are voiced. The first grievance is that the said Licensing Order issued under the Essential Commodities Act does not empower the authorities to seize and remove the entire stock of essential commodity if the grievance is made against a part of such stock which according to the authorities is held contrary to the provisions of the Licensing Order. The second grievance is that such seized commodities having not been produced before the concerned Competent Authority within 24 hours, the said inaction on the part of the authorities is illegal.

2. The learned Single Judge after hearing the appellant in great detail, considering the first grievance, came to the conclusion that so far as the search, seizure and removal of the stocks of essential commodities are concerned, once contravention of even a part of the stock is found, the stock has to be seized and in view of the language of Clause 14(d) of the Licensing Order, it cannot be said that at the time of search and seizure the concerned officer should undertake the exercise of segregating only that part of the stock for which an offence under the Licensing Order is alleged. It cannot be said that Sub-clause (d) of Clause 14 of

the Order vests any unreasonable or arbitrary power. For coming to that conclusion the learned Single Judge has relied upon number of Decisions of this Court and the Supreme Court; we entirely concur with the reasoning of the learned Single Judge. On the express language of Sub-clause (d) of Clause 14 of the Order, we cannot say that for search, seizure and removal of such stocks any minute investigation is to be made and the stock is to be segregated for the purpose of confiscation. It is easy to visualise that at the stage of search, seizure and the consequential removal of the stocks on the allegation that such stock is held in breach of the relevant provisions of the Licensing Order or even a part is so held, the offending stock has to be searched, seized and removed and the alleged contravention would attach to the entire stock. Therefore, at the stage of seizure it is not possible and is also difficult to segregate a part of the stock, as tried to be suggested. Therefore, the first grievance has no substance.

3. So far as the second grievance is concerned, though such a contention was raised in the Writ Petition, no discussion appears to have been made by the learned Single Judge in that regard. It is, therefore, easy to presume that it might not have been pressed. However, learned Counsel for the appellant urged the same before us and hence we thought it fit to consider the same. He submitted that after the stock was removed the authorities do not produce the same before the Competent Authority, namely the Collector or the Deputy Commissioner, as the case may be, who is the authority to adjudicate upon the question of confiscation. He, therefore, submitted that they should be directed to produce such seized stock before the Competent Authority within 24 hours.

4. In our view, the above aspect would have required further scrutiny but for the fact that Section 6-A of the Essential Commodities Act 1955 itself provides a safety valve for such cases. Sub-section (1) of Section 6-A of the Act reads as under:-

"6-A. Confiscation of essential commodity;-

(1) Where any essential commodity is seized in pursuance of an order made u/s 3 in relation thereto, a report of such seizure shall, without unreasonable delay, be made to the Collector of the district or the Presidency town in which such essential commodity is seized and whether or not a prosecution is instituted for the contravention of such order, the Collector, may, if he thinks fit expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied that there has been a contravention of the order, may order confiscation of -

xxx xxx xxx"

A very look of this provision shows that the authority has to report without any delay to the Collector about such seizure and it is open to the Collector to direct the essential commodity so seized to be produced before him. It is obvious that if the person whose stock is seized feels aggrieved by any undue delay on the part of the seizing authority, he has ample remedy of approaching the Collector or

Deputy Commissioner, as the case may be, u/s 6-A of the Essential Commodities Act seeking appropriate orders. As laid down in Sub-section (2) of Section 6-A thereof, in appropriate cases the Collector, in connection with the commodity which is subject to speedy decay, may pass appropriate order. Therefore, the Legislature has provided a safety valve for redressing the grievances about any undue delay in producing the seized commodity before the Competent Authority. Consequently, it cannot be said that there is absence of any provision for - safeguarding the interest of the stock holders under the Act. The second grievance also, therefore, fails as it has no substance.

5. Since there is no substance in the grievances sought to be made out, the Appeal is dismissed.