
(1990) 07 PAT CK 0021

In the Patna High Court

Case No : Criminal Writ Jurisdiction Case No. 214 of 1986 (R)

Ramdhani Ram

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-07-1990

Acts Referred:

Essential Commodities Act, 1955 — Section 6C

Citation : (1990) 2 PLJR 365

Hon'ble Judges : L.P.N. Shahdeo, J

Bench : Single Bench

Advocate : G.C. Bharuka and P.D. Agrawal, for the Appellant; M.P. Mitra For the State, for the Respondent

Judgement

L.P.N. Snahdeo, J.—This criminal writ application has been filed for quashing the order of confiscation dated 10.2.1985 passed by the Deputy Commissioner-cum-Collector, singhbhum at Chaibasa in Revenue Misc. Case No. 62 of 1984-85 (Annexure-1) and also the order dated 18.11.86 passed by the Secretary, Food, Supply and Commerce Department, dismissing the appeal u/s 6C of the Essential Commodities Act. It appears that the business premise of the petitioner was inspected on 8.5.1984 and 16- quintals of linseeds were seized from there. The allegation is that the petitioner has contravened clause 3 of the Pulses, Edible Oilseeds and Edible Oils (Storage Control), Order, 1977 (for short the Order).

2. The main points for consideration in this writ application is that before enforcement of the Bihar Trade Articles (Licences Unification) Order, 1984 (for short the "Unification Order") there was no licensing order in respect to the oilseeds and the Unification Order fixing the storage limit in respect of oilseeds and other trade articles etc., came into force only on 17.10.1985.

3. Mr. Bharuka, learned counsel for the petitioner has submitted that admittedly when the business of the petitioner was inspected on 8.5.1984, there was no Unification Order fixing the storage limit for oilseeds. Therefore, it was submitted that the petitioner has committed no offence because at that time there was no

Licensing Order in respect of the oilseeds.

4. Learned counsel for the State has also not controverted this fact.

5. It is admitted position that although, the Unification Order was published on 19.4.1984 but the storage limit in respect of oilseeds and other trade articles came into force only on 17.10.1985 vide G.S. R. 49. This shows that prior to 17.10.1985 there was no Unification Order so far the oilseeds are concerned. In the circumstances, the Unification Order had no application in respect of storage limit of oilseeds on 8.5.1984 when the business premises of the petitioner was inspected. This being the position, the petitioner in fact has not committed any contravention or violation of any terms and conditions of the Unification Order.

6. It was submitted that there is some mention of Central Order in the Collector's judgment. Clause 3 of the aforesaid Order provides that no person shall carry on business as a dealer in pulses or edible oilseeds or edible oil except under and in accordance with the terms and conditions of a licence granted under the State Order.

7. It appears that in light of the above Order, ultimately one has to depend on the State Order. It is admitted position that the storage limit in respect of the oilseeds came into force only on 17.10.1985 and, therefore, the aforesaid Order, 1977 had no application in view of the fact that the storage limit was fixed by the State Order which came into force on 17.10.1985.

8. That being the position, there is no escape from the conclusion that the petitioner has not committed any offence. In the result, for the reasons stated above this application is allowed and the impugned order of the Deputy Commissioners-cum-Collector dated 18.2.1985 as also the Appellate order dated 18.11.1986, are quashed. The petitioner is, accordingly, discharged from the liability of the security bond.