

(1956) 07 BOM CK 0004
In the Bombay High Court
Case No : Misc. Application No. 184 of 1956

Shah Trikamdas Damji

APPELLANT

Vs

S. Venkatesan

RESPONDENT

Date of Decision : 25-07-1956

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1956) 07 BOM CK 0004

Hon'ble Judges : Desai, J

Bench : Single Bench

Advocate : Joshi, for the Respondent

Judgement

1. This is a petition for an appropriate writ under article 226 of the Constitution. The Petitioner obtained a licence, which authorized him to import rock salt .After getting the licence he imported rock salt and the goods arrived in due course. He filled up a Bill of Entry for clearance of the goods on 1st March 1956. On 3rd April 1956 the Assistant Collector of Customs wrote to the Petitioners stating that it appeared to him that the licence was not valid for the import of rock salt .In reply the Petitioner informed the Collector that the licence was valid and the goods should be released. It was the contention of the Petitioner that rock salt was mentioned in Arya Bhishak, a recognized authority in Ayurvedic medicines. The petitioner requested for a personal hearing. The personal hearing was granted by the Asstt. Collector of Customs to the Petitioner on 12th April, 1956. What transpired at the personal hearing is not material in view of the decision I am arriving at on this petition. On 1st May 1956 the Petitioner received an order made by the Deputy Collector of Customs confiscating the goods. That is the order which is challenged in this petition.

2. One of the contentions raised by the Petitioner in this petition is that the order made by the Deputy Collector of Customs is contrary to all principles of natural justice because no hearing whatever was given by the Deputy Collector to the Petitioner. That is not denied by the Respondent in the affidavit in opposition to

the Rule. Mr. Joshi, learned Counsel for the Respondent has urged before me only one consideration that the Petitioner was entitled to a hearing by the Customs Authorities. The Asstt. Collector of Customs did in fact hear the petitioner before the order challenged by the Petitioner was made. The Deputy Collector perused the papers and went through the record and then passed the order for confiscation. Therefore, it was argued that there was hearing given to the Petitioner before the order challenged by the Petitioner was made. This as I have already stated was the only argument advanced on behalf of the Respondent. To my mind there is no substance in this argument. Rules of natural justice require that an order of this kind should be made only after hearing the party concerned. The Deputy Collector cannot be stated to have given any hearing to the Petitioner and it seems redundant to elaborate on a point of this nature. The only conclusion possible is that the order challenged before me was passed without giving any hearing to the Petitioner and was contrary to the principles of natural justice.

3. In the view I take of the matter I do not think it is necessary for me to consider the other contentions raised on behalf of the Petitioner. The petition succeeds and the Rule will be made absolute. A writ of certiorari will issue against the Respondent quashing the order made by him. The Respondent will pay the costs of the Petitioner fixed at Rs. 250/-.