
(1996) 11 CAL CK 0009
In the Calcutta High Court
Case No : Civil Order No. 8739 (W) of 1996

Shyamal Kumar Mondal

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 15-11-1996

Acts Referred:

Citation : (1996) 11 CAL CK 0009

Hon'ble Judges : Samaresh Banerjea, J

Bench : Single Bench

Advocate : Pradip Kumar Chakraborti, for the Appellant; Sriparna Ghosh Dostidar, for the Respondent

Judgement

Samaresh Banerjea, J.—In the instant writ application the petitioner makes a grievance that the respondents are not permitting him to move rice through the statutory rationing area although he owns a valid licence under paragraph (2) of the West Bengal Rice and Paddy (Licensing & Control) Order, 1967 and is carrying on business as a wholeseller in rice. It is the case of the petitioner that by an order dated September 30, 1977, and further order dated November 24, 1982, Government of India lifted restrictions in trade of rice and allowed licence holders to trade anywhere in India. Following such orders the respondents are allowing dealers in West Bengal to import or export rice to and from anywhere of the territory of India excepting statutory rationing area of West Bengal by road or railway on furnishing monthly return of such transaction. It is claimed by the petitioner that there is no restriction regarding trade of the petitioner although there is embargo in selling and purchasing rice in statutory rationing area but such embargo cannot restrict vehicle of the petitioner despatched with loaded rice to pass through any statutory rationing area it appears from the licence granted to the petitioner under the aforesaid West Bengal Rice & Paddy (Licensing & Control) Order, 1967, that the area of business of the petitioner is a place indicated therein excepting statutory rationing area. The difficulty which the petitioner is facing, according to the petitioner, is that for the purpose of

carrying out his business, vehicles carrying rice often has to pass through statutory rationing area and the same is not being permitted by the respondents. Mr. Ghosh appearing for the petitioner relied upon an order passed by Shyamal Kumar Sen, J. dated 7-9-93 in C.O. No. 11327(W) of 1993 when His Lordship had to deal with similar case and it was directed inter alia that the respondents will allow the petitioner to transport articles through the statutory rationing areas on condition that the petitioner will not load and/or unload the articles in the said statutory rationing areas. Having heard the learned Advocates for the parties and considering the application and also considering the judgment and order of Ruma Pal, J. passed on 22-12-93 in the case of Uttam Saha & Ors. vs. State of West Bengal & Ors., I am of the view that the writ petition can be disposed of in terms of the order passed by Ruma Pal J. in the aforesaid case with which I am in respectful agreement.

2. It appears that paragraph 3 of the West Bengal Rice (Restriction of Movement) Order, 1977, which was enacted on 21-12-77 provide inter-alia that no person shall transport any rice into or out of any area in which the West Bengal Rationing Order, 1964, is for the time being in force except in accordance with the permit granted by the Controller. Such provision of the said West Bengal Rice (Restriction of Movement) Order, 1977, therefore, clearly creates a bar for the petitioner for the movement of vehicle carrying rice into and out of the statutory rationing area apart from the fact that the same is also a condition in the licence. Nothing wrong, therefore has been committed by the respondents in not permitting the vehicle of the writ petitioner to move into and out of the rationing area in course of carrying on his business. I respectfully agree with Ruma Pal, J. that the notification No. 2084 F.S./F.S./14R-7/77 dated 21-4-89 makes it clear that under paragraph 3 of the aforesaid West Bengal Rice (Restriction of Movement) Order, 1977, there cannot be any movement of rice in or out of the statutory rationing area where West Bengal Rationing Order, 1964 is in force except in accordance with the permit granted by the Controller.

3. Although in the aforesaid C.O. 11327(W) of 1993 Shyamal Kumar, J. was pleased to direct the respondents in the similar case to allow the petitioner to transport articles through the statutory rationing area on condition that the petitioner will not load and/or unload the articles in the statutory rationing areas but it appears that the attention of the Court was not drawn to the provision of the aforesaid paragraph 3 of the West Bengal Rice (Restriction of Movement) Order 1977 and the aforesaid notification dated 21-4-89.

4. It is true that the petitioner might be facing difficulty because in course of carrying on his business occasion very often arises when the vehicle may have to pass through the statutory rationing areas but the petitioner is not without any remedy and such remedy has been provided for in paragraph 3 of the said Order itself under which the petitioner may apply for requisite permit.

5. I, therefore, dispose of this application by directing that in course of carrying on his business if the petitioner is unable to avoid the statutory rationing areas it

would be open to the petitioner to apply before the Controller under paragraph 3 of the West Bengal Rice (Restriction and Movement) Order, 1977, and in the event such application is made by the petitioner, the Controller shall dispose of the same in accordance with law as expeditiously as possible but not later than 72 hours of making such application. In the event the Controller refuses such permission, he shall record reasons therefor.

6. The writ application is thus disposed of. There will be no order as to costs.

7. Learned Advocates for both parties are given liberty to communicate the order to the respondents. Xerox certified copy be handed over expeditiously if applied for.