

(2007) 03 OHC CK 0047
In the Orissa High Court
Case No : Review Petition No. 12 of 2007

Smt. Jayantibala Sahoo

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 06-03-2007

Acts Referred:

Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act, 1980 — Section 11, 3(1), 3(2)

Citation : (2007) 103 CLT 592 : (2007) 1 OLR 586 Supp

Hon'ble Judges : I.M. Quddusi, J;A.K. Samantray, J

Bench : Division Bench

Advocate : A.K. Mohapatra, N.C. Rout, S.K. Padhi, J.K. Behera and A. Mohapatra, for the Appellant; Add. Govt. Advocate for O.P. Nos. 1 and 2 and J.K. Mishra, Asst. Solicitor General for O.P. No. 3, for the Respondent

Final Decision : Dismissed

Judgement

I.M. Quddusi, J.—This review petition has been filed against the judgment and order dated 12.2.2007 passed by this Court in writ petition W.P. (C) No. 13073 of 2006 dismissing the writ petition. The writ petition was filed challenging the order of detention passed by the District Magistrate, Mayurbhanj dated 8.9.2006 under Sections 3(1) and 3(2) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (for short, "the Act").

2. The Petitioner was granted a license of Sub-wholesale Dealership to deal in Kerosene oil under the Public Distribution System for Nuagaon and Kapadia Sub-Depots under Saraskana Block in the year 1966-97 which was renewed from time to time and lastly the same was renewed up to 31st of March, 2007 under the Orissa Public Distribution System (Control) Order, 2002. She was detained under the Act by order of the District Magistrate, Mayurbhanj with a view to preventing her from acting in a manner prejudicial to the maintenance of supplies of Kerosene oil.

3. Writ petition bearing number W.P. (C) No. 13073 of 2006 was filed by the

Petitioner on 28.9.2006 challenging the order of detention. Till that time the Advisory Board had not given its opinion to the State Government. The same was given on 12.10.2006 and the detention order was confirmed by the State Government on the basis of the opinion of the Advisory Board on 26.10.2006. Therefore, it was not available to the Petitioner to challenge the detention after the opinion of the Advisory Board and its confirmation by the State Government. No amendment has also been filed to the writ petition subsequently. Learned Counsel for the Petitioner submits that he had mentioned certain things in his rejoinder affidavit but that rejoinder affidavit was not a part of the writ petition but only rebuttal of the counter affidavit for which no opportunity was open for the opposite parties to submit their reply. However, this Court had delivered its judgment on the basis of the averments made in the writ petition vis-a-vis the written note submitted by the learned Counsel for the Petitioner.

4. Review of the judgment in question has been sought on the ground that the representation made by the Petitioner before the Advisory Board (contained in Annexure-8 to the rejoinder affidavit to the writ petition) requesting in para-4 to allow her to be represented by her next friend and to supply six documents as stated in para-5 thereof but the Petitioner was neither allowed to be represented by next friend nor the documents were supplied to her. However, no such averment has been made in the writ petition. The Petitioner should have moved for amendment of the writ petition due to the pendente lite developments but the same was not made. Therefore, nothing could be done in that regard. In the procedure of Advisory Board mentioned in Section 11 of the Act, only this much has been provided that the report shall be submitted by the Advisory Board after obtaining the necessary information from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned or if the person concerned desires to be heard after hearing him in person. Needless to mention that opportunity of personal hearing was given to the Petitioner.

5. The new facts and questions raised in this review petition at this stage when the order of detention of the Petitioner is going to end on 7th of March, 2007, i.e., tomorrow are not liable to be interfered with as in any case if we direct the opposite parties to produce the relevant records again for perusal from the angle of new grounds mentioned in this review petition, the cause of the same would come to an end in the mean time. Rest of the grounds taken in the review petition have already been dealt with by this Court in its judgment passed in the writ petition.

6. In view of the above, this Court has not found any error apparent on the face of the record in its judgment dated 12.2.2007 in the writ petition in question. The review petition is misconceived and is, therefore, dismissed.

A.K. Samantray, J.

7. I agree.