
(2012) 10 MP CK 0155
In the Madhya Pradesh High Court
Case No : Writ Petition No. 6086 of 2012

Smt. Kajal Vashisth

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 05-10-2012

Acts Referred:

Essential Commodities Act, 1955 — Section 6A

Citation : (2012) 10 MP CK 0155

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Pratip Visoriya, for the Appellant; Pravin Newaskar, Dy. Government Advocate for the State, for the Respondent

Final Decision : Allowed

Judgement

Hon"ble Shri Justice Sujoy Paul

1. In this petition filed under Article 226 of the Constitution, the petitioner has prayed for setting aside the order dated 30.6.2012, whereby the Collector has deferred the hearing of the application for providing the vehicle on "supurdigi" to the petitioner. Shri Pratip Visoriya, learned Counsel for the petitioner submits that the petitioner preferred an application along with necessary affidavit for releasing the vehicle on "supurdigi" and the authority below has committed an error in not passing the orders and deferring the hearing of the said application after the decision of the authority. He relied on G. Subbarama Naidu Vs. The Joint Collector, Chittoor Dist. and Others, and judgment passed by this Court in Misc. Cri. Case No. 2931/2012 (Parsadilal vs. State of MP) (Annexure P-8).

2. Per Contra, Shri Pravin Newaskar, learned Deputy Government Advocate, supported the order.

3. I have heard learned Counsel for the petitioner.

4. I find force in the argument of learned Counsel for the petitioner that the

authority below was under a legal obligation to decide the application of the petitioner regarding release of the vehicle on "supurdigi". After considering the proviso to section 6-A of Essential Commodities Act, the Andhra Pradesh High Court opined as under:-

3. This proviso makes it abundantly clear that the Legislature in its wisdom felt that the vehicle need not be confiscated even if it is involved in a series of offences and it should be released if the owner is prepared to pay fine not exceeding the market price at the date of seizure of the essential commodities. Hence we set aside the order under appeal and direct the Joint Collector to release the lorry to the petitioner on his furnishing security equivalent to the value of the seized essential commodities to the satisfaction of the Joint Collector. In the result the writ appeal is allowed. No costs. Advocate's fee Rs. 200/-.

5. This Court in Parsadilal's case (supra) also directed for release of the vehicle if such an application is preferred. In the considered opinion of this Court, the order passed by the authority below is unique in nature. The authority was under an obligation to decide the application of the petitioner for release of the vehicle and hearing or decision of that application could not have been deferred after the final decision of the matter. Such a decision, in my opinion, frustrates and defeats the very purpose of filing an application for release of the vehicle. This runs contrary to the scheme and object of the Essential Commodities Act and the law laid down on the subject.

6. Consequently, the order dated 30.6.2012 (Annexure P-1) is set aside. The said authority is directed to deal with the application of the petitioner for release of vehicle forthwith, preferably within seven days from the date of production of certified copy of this order and pass appropriate orders on it in accordance with law. With the aforesaid direction petition stands allowed. No costs.