
(2007) 05 PAT CK 0094

In the Patna High Court

Case No : Govt. Appeal (SJ) No. 73 of 1988

State of Bihar

APPELLANT

Vs

Radhey Shyam Agrawal and Others

RESPONDENT

Date of Decision : 23-05-2007

Acts Referred:

Essential Commodities Act, 1955 — Section 7

Citation : (2007) 4 PLJR 622

Hon'ble Judges : Abhijit Sinha, J

Bench : Single Bench

Advocate : Jharkhandi Upadhyay, for the Appellant; N.K. Agrawal and D.N. Diwan, for the Respondent

Final Decision : Dismissed

Judgement

Abhijit Sinha, J.—This appeal by the State of Bihar is directed against the judgment dated 22nd day of July, 1988 passed by Shri Braj Kishore Thakur, Special Judge (E.C. Act Cases), Purnea in Spl. Case No. 28/1986 arising out of Purnea (Town) P.S. Case No.186/86, whereby and whereunder the learned Special Judge has acquitted the three accused persons (respondents herein) of the charges u/s 7 of the Essential Commodities Act for contravention of the provisions of the Bihar Trade Articles (Licences Unification) Order, 1984 (hereinafter referred to as the "Unification Order"). It appears that one P.C. Prasad, Block Supply Officer, Krityanand Nagar Block, alongwith other officers raided the premises of M/s Jagdish Trading Co., a wholesale dealer of edible oils, vanaspati, edible oil seeds, sugar, foodgrains and cement located in the Marketing Yard, Gulabghat in the town of Purnea and allegedly detected several irregularities which appear to have contravened the provisions of condition 2(b) and 5(4) of the Unification Order, non-display of license in the business premises and non-cooperation in inspection which amounted to violation of condition 9 of the license.

2. This appeal needs to be dismissed at the very threshold stage since there is a

catena of decisions that the Unification Order in respect of cereals, foodgrains, oil etc. is not workable in Bihar. In this context reference may be made to the case of M/s Banarsilal Jhunjhunwala and Sons Vs. The South Bihar and Chotanagpur Area Electricity Board, Ranchi and Others, and Vijay Kumar Vs. State of Bihar, .

3. There is yet another aspect which requires consideration. Admittedly, the Block Supply Officer, who allegedly raided the godown premises and appears to have detected irregularities in the business premises and thereby submitted the complaint to the Sadar Police for registration of the case was empowered to make search and seizure u/s 30 of the Unification Order on 27.12.1988, whereas the date of alleged raid and seizure was 14.7.1986. Obviously, the said P.C. Prasad, the Block Supply Officer was not competent to initiate raid or seizure as he was not empowered to do so. It goes without saying that a valid seizure was a sine qua non for giving jurisdiction to the Court to initiate and dispose of criminal proceedings, but in the instant case the Block Supply Officer on the relevant date of raid and seizure not having been empowered to search any premises or seize any article had exceeded his jurisdiction. The entire prosecution of the appellant herein cannot be sustained.

4. The learned trial Court for cogent reasons had rightly dismissed the special case and there is no occasion to interfere with the same.

5. The State Government before filing the instant appeal ought to have been careful in going through the relevant law as was prevalent at the time and not resorted to frivolous litigation. Accordingly, this appeal has no merit and is dismissed.