
(1981) 12 AHC CK 0019
In the Allahabad High Court
Case No : Criminal Revision No. 254 of 1981

Tulsi Ram Ajeet Kumar

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 23-12-1981

Acts Referred:

Essential Commodities Act, 1955 — Section 6A

Citation : (1982) 6 ACR 161

Hon'ble Judges : M. Wahajuddin, J

Bench : Single Bench

Judgement

M. Wahajuddin, J.—This revision is directed against the judgment and order dated November 25, 1980 of the Sessions Judge, Pauri-Garhwal.

2. It would appear that the S.D.M. Garhwal passed an order dated 26-6-1980, confiscating the articles involved in the proceedings. The order was passed u/s 6-A of the Essential Commodities Act for contravention of U. P. Food Grains Dealers Licensing Order, 1976, placing restriction on the movements of the various articles of the Foodgrains. A notice was issued by the District Magistrate, that is, Collector, but thereafter the case proceeded before the Sub-Divisional Magistrate, Sri Hari Charan Prakash. One of the grounds urged during the argument is that the S.D.M. has no legal authority to pass the confiscation order and the same is without jurisdiction. u/s 6-A, it is the District Magistrate i.e. the Collector who has been authorised with the powers of confiscation. From the original file it would appear that the supply officials reported that by a certain letter of the Government the D.M. can delegate powers and transfer case and the case was transferred by the D.M. I gave sufficient time to the State counsel to produce any notification under which the D.M. could delegate powers to the S.D.M. but any such notification was not produced nor I have been shown any provisions in the Act providing for such delegation of powers. An Additional District Magistrate may exercise powers similar to the District Magistrate but not any Sub-Divisional Magistrate. In fact, if any such State notification authorising delegation of powers

existed it should have been placed in the file or in any case it should have been produced by the State counsel before this Court. This has not been done. On 27-11-1981 I allowed time to the State counsel for the very purpose. Even after concluding the arguments the judgment was reserved but no such notification is produced. I, therefore, hold that S.D.M. is not shown to be authorised to exercise powers u/s 6-A of the Essential Commodities Act and the order of confiscation passed by him, therefore, cannot be sustained and has to be set aside. It would, however, be open to the competent authority to proceed afresh if it so desires. With aforesaid observation the present revision is allowed and the judgment and order dated 26-6-1980 of the Sub-Divisional Magistrate confiscating the foodgrains etc. involved in the proceedings is set aside.