

(2001) 07 JH CK 0014

Jharkhand High Court

Case No: Civil Writ Jurisdiction Case No. 3725 of 1999 (R)

Smt. Lalpari Devi and Another

APPELLANT

Vs

State of Bihar and Another

RESPONDENT

Date of Decision: July 27, 2001

Acts Referred:

- Essential Commodities Act, 1955 - Section 6A, 7

Citation: (2002) 1 BLJR 299

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

M.Y. Eqbal, J.

Petitioners have challenged the order dated 26-10-99 passed by respondent No. 2, Deputy Commissioner, East Singhbhum, Jamshedpur by reason whereof he has confiscated the truck of the petitioners bearing registration No. BR-14G-8058 and HR-29-A-7688 and directed for sale of the trucks in public auction.

2. Petitioners are the owner of the trucks. On the basis of report of the Marketing Officer, Jamshedpur, a case u/s 7 of the Essential Commodities Act (in short E.C. Act) was instituted against one Amarjeet Singh, Devendra Prasad Agarwal and the drivers of the trucks as aforesaid.

3. These two trucks found loaded with sugar standing in front of the shop of one Amarjeet Singh. It is alleged in the report that a substantial quantity of sugar was already unloaded from truck No. BR-14-G-8058 and only 54 bags were found on it. The drivers and the persons named above could not produce any document in support of sugar rather the drivers disclosed that they had loaded the sugar from the godown of Food Corporation of India and it was being carried to Jhinkpani in West Singhbhum, but the same was unloaded in the shop of Amarjeet Singh. The shop of Amarjeet Singh was found open and it was inspected in presence of the

employee of the shop and during inspection 29 bags of sugar and 196.65 kg. wheat were found which was beyond the prescribed limit. The inspecting team accordingly seized the trucks and the commodities which were found in the shop of Amarjeet Singh and a Confiscation proceeding u/s 6A of the E.C. Act was initiated. Respondent No. 2 being the Confiscating Authority finally passed the impugned order confiscating the trucks.

4. A counter-affidavit has been filed by the respondents stating inter alia that the trucks in question were carrying goods like sugar for which no document could be produced when required by the Marketing Officer, Jamshedpur. It is stated that the petitioners being the owners of the vehicle did not filed show cause and consequently final order of confiscation was passed by respondent No. 2.

5. Mr. Kalyan Roy, learned Counsel for the petitioners assailed the impugned order mainly on two grounds. The first ground taken by the petitioner is that no notice whatsoever has been received by the petitioner and the respondents authority without receiving service report of the notice to the petitioners passed the impugned order of confiscation. According to the learned Counsel, since no notice was ever issued by the Confiscating authority there was no occasion for the petitioners to file their show cause. The second ground taken by the petitioners is that even assuming that the Collector has power to confiscate the trucks, he has no power to sale the trucks u/s 6A of the Act as the expression "disposal" in Sub-section (6) of Section 6A does not mean and include final disposal by auction sale of the vehicle. The submissions made by the learned Counsel are devoid of any substance and has no leg to stand. It has not been disputed by the petitioners that in the Confiscation proceeding, they filed an application for release of the trucks. This fact has been admitted in para 9 of the writ application which reads as under:

That the petitioner states that no notice whatsoever has been received by the petitioner, although an application for release of the trucks has been filed by the petitioners pursuant to the direction of this Court.

6. The Collector in the impugned order has taken notice of the fact that although petitioners appeared in the Confiscation proceeding but did not file any show cause contesting the confiscation proceeding, rather they simply prayed for release of the vehicle. Relevant portion of the order passed by the Collector reads as under:

Notices were served and in response to the notices Siya Ram Singh and Smt. Lalpari Devi filed a petition along with Vakalatnama on 16-10-98 for release of the aforesaid two trucks and filed certified copy of the Patna High Court order dated 8-10-98 passed in Cr. WJ.C. No. 159 of 1998 (R), wherein the Hon"ble High Court has been pleased to direct Siya Ram Singh to place his all grievances before the Deputy Commissioner-cum-Confiscating authority. That it appears that a petition was also filed by Siya Ram Singh and Smt. Lalpari Devi on 24-9-98 for release of the trucks.

7. From the impugned order, it is clear that the petitioners got the trucks released in their favour after furnishing sufficient security to the satisfaction of the Collector but they did not contest the Confiscation proceeding. The Confiscating authority on the basis of the evidence recorded a finding that Amarjeet Singh the transporter and the drivers of the two trucks have committed offence u/s 7 of the E.C. Act, accordingly order was passed for confiscation of trucks and for its auction sale.

8. The second ground taken by Mr. Kalyan Roy is that the Collector while confiscating the trucks has no power to sale the same u/s 6A of the Act. As observed herein above, the submission of the learned Counsel has no force. It is well settled that the competent authority after confiscating the vehicle can put the same in auction as under the Act not only essential commodities which is to be forfeited but the vehicle also could be forfeited to the Government.

9. For the aforesaid reasons, I do not find any reason to interfere with the order passed by the Confiscating authority. There is no merit in this writ application which is accordingly dismissed.