

**(2014) 05 MP CK 0006**

**Madhya Pradesh High Court**

**Case No:** Miscellaneous Criminal Case No. 12968/2013

Smt. Premvati Patel

APPELLANT

Vs

State of M.P. and Another

RESPONDENT

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**Date of Decision:** May 15, 2014

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Essential Commodities Act, 1955 - Section 3, 6-A

**Citation:** (2015) 1 MPJR 58

**Hon'ble Judges:** N.K. Gupta, J

**Bench:** Single Bench

**Advocate:** Vijay Kumar Shukla, Advocate for the Appellant; Akhay Namdeo, Panel Lawyer for the respondents No. 1 and 2, Advocate for the Respondent

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**Judgement**

N.K. Gupta, J.

The petitioner has preferred the present petition u/s 482 of Cr.P.C. of the Cr.P.C. to quash the order dated 24.6.2013 passed by the Collector, Sidhi in Criminal Case No. 139/B-121/2012-13 whereby the vehicle MP-53 G.A. 1972 was directed to be confiscated. The petitioner has also challenged the order dated 30.8.2013 passed by the Additional Sessions Judge, Sidhi in Criminal Appeal No. 75/2013 whereby, the appeal filed by the petitioner was dismissed and order dated 24.6.2013 passed by the Collector, Sidhi was confirmed.

2. The facts of the case in short are that, on 2.3.2013, an inspection was made and it was found that by truck No. MP-53 G.A. 1972, 95 bags of wheat i.e. 47.50 quintal wheat was being transported. Wheat was loaded from Warehouse, Sidhi and vehicle was driven by Sitaram Kori. The driver informed that, he was directed to take the wheat from Warehouse, Sidhi to Ration Shops of Kochila and Barambaba but, no such documents were found with him to transport such wheat. The In-charge, District Supply Officer, Sidhi made a complaint to the Collector, Sidhi. After seizure

of the truck and wheat thereafter, notices were issued to the petitioner as well as the Lead Manager of Co-operative Society, Jamodi. A show cause notice was also issued to the driver Sitaram Kori.

3. After hearing the parties, the Collector, Sidhi vide order dated 24.6.2013, directed to confiscate the vehicle used for the illegal transportation. The appeal filed by the petitioner before the learned Additional Sessions Judge was dismissed.

4. I have heard the learned counsel for the parties.

5. The learned counsel for the petitioner has submitted that the Collector, Sidhi did not follow the mandatory provisions of the Essential Commodities Act and therefore, no appropriate opportunity was given to the petitioner for hearing and therefore, order should have been set aside. Reliance is placed upon the order passed by the single Bench of this Court in the case of [Hukumchand Sahu Vs. State of M.P. and Others](#), . If the submissions made by the learned counsel for the parties are considered, then it would be apparent that the Collector gave the notice to the petitioner before passing the confiscation order and therefore, it cannot be said that the petitioner was not given any opportunity of hearing. Under such circumstances, law laid in the order passed in the case of Hukumchand Sahu (supra) cannot be relied in the present case. According to the provisions of Section 6-A of the Essential Commodities Act, 1955 (in short the "E.C. Act"), it is mentioned that if any essential commodity is seized for contravention of the provisions of Section 3 of the E.C. Act then not only that commodity but, the vehicle by which it was carrying may also be confiscated.

6. If the facts of the present case are considered, then it is an admitted fact that the petitioner engaged her truck with the Lead Society, so that wheat and other items of ration could be supplied from the Warehouse, Sidhi to the various Ration Shops and therefore, the vehicle was attached to Lead In-charge, Jamodi. When vehicle was attached to the Lead In-charge, Jamodi then if some wheat is loaded from Warehouse Sidhi, then it could not be loaded for sale of wheat in open market. Certainly, the warehouse in-charge was satisfied that wheat was to be supplied to Lead Manager of the concerned Cooperative Society, Jamodi and it was directed that loaded wheat be provided to particular ration shops. It is also admitted that wheat was to be taken to ration shops of Kochila and Barambaba. Initially 195 bags were loaded in the vehicle and 100 bags were unloaded at ration shop, Kochila and thereafter, when the vehicle was taken to the ration shop, Barambaba, it was seized in the way. It was the duty of in-charge, Warehouse, Sidhi to issue the relevant papers to the truck driver and not to instruct orally. The driver took the wheat to the ration shop of Kochila and thereafter, he was taking the truck to the ration shop of Barambaba. Under such circumstances, it would be apparent that though the driver did not have the documents relating to delivery of the wheat to particular shops but, he followed the oral instructions given by the Lead Manager, Cooperative Society, Jamodi and therefore, prima facie it cannot be said that the truck driver Sitaram Kori

has committed any crime relating to the essential commodity.

7. If Rukum Singh, Lead Manager did not give the documents to Sitaram Kori, then action was required to be taken against the Lead Manager and not against the driver who, was simply following the instructions. If he was directed to take the wheat from Warehouse Sidhi to the ration shops of Kochila and Barambaba and he unloaded 100 bags of wheat to the ration shop of Kochila, then there was no fault of the driver. The Collector, Sidhi did not take any action relation to confiscation of the wheat. The wheat was immediately given on interim custody to the Lead Manager. If offence was done under the E.C. Act, then wheat should have been confiscated and the cost of wheat should be recovered from the Lead Manager. Under such circumstances, the Collector himself found that no crime under E.C. Act was made out. The provisions of Section 6-A of E.C. Act empowers the Collector to confiscate the essential commodity and the vehicle by which that essential commodity was carried. It was not possible for the Collector, to pass no order of confiscation of the wheat (essential commodity) and hence without any authority he confiscated the vehicle and therefore, the order passed by the Collector cannot be said to be legal.

8. Also in this connection the law laid by the single Bench of this court in the case of [Rayees Khan and another Vs. State of M.P.,](#) may be referred, in which it is laid that if the contravention of the provision was not within the knowledge of the owner of the vehicle, then the vehicle cannot be ordered to be confiscated. If the law laid by the single Bench of this Court is applied to the fact of this case then, it would be apparent that, the Lead Manager directed the truck driver to load the wheat from the Warehouse, Sidhi and to deliver to the various ration shops. It could not be established by the prosecution that such oral directions were in the knowledge of the petitioner i.e. owner of the truck and under such circumstances, no order could be passed for confiscation of the truck.

9. On the basis of the aforesaid discussion the petition filed by the petitioner appears to be acceptable and therefore, it is hereby accepted. The impugned order dated 24.6.2013, passed by the Collector, Sidhi is hereby set aside. The truck No. MP-53 G.A. 1972 be released forthwith, without any delay. It is declared free from confiscation. If it is on interim custody of the petitioner, she shall continue with the possession of the truck and if it was not given in the interim custody to the petitioner then, the petitioner shall be free to seek the compensation from the State if her truck was kept for more than an year without any reasonable cause. Consequently, the order passed by the learned Additional Sessions Judge is hereby quashed.

10. Copy of the order be sent to the Additional Sessions Judge, Sidhi as well as the authority below along with their records for information and compliance.