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Essential Commodities Act, 1955

Section 6A - Confiscation of Essential Commodity

1[6A . Confiscation of essential commodity.-- 2 [(1)] Where any 3 [essential commodity is seized] in pursuance of an order made under section 3 in relation thereto, 4 [a report of such seizure shall, without unreasonable delay, be made to] the Collector of the district or the Presidency town in which such 3 [essential commodity is seized] and whether or not a prosecution is instituted for the contravention of such order, the Collector 5 [may, if he thinks it expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied] that there has been a contravention of the order 6 [may order confiscation of-

(a) the essential commodity so seized;

(b) any package, covering or receptacle in which such essential commodity is found; and

(c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity:]

Provided that without prejudice to any action which may be taken under any other provision of this Act, no foodgrains or edible oilseeds in pursuance of an order made under section 3 in relation thereto from a producer shall, if the seized foodgrains or edible oilseeds have been produced by him, be confiscated under this section:

7 [Provided further that in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation, a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried by such animal, vehicle, vessel or other conveyance.]

7 [(2) Where the Collector, on receiving a report of seizure or on inspection of any essential commodity under sub-section (l), is of the opinion that the essential commodity is subject to speedy and natural decay or it is otherwise expedient in the public interest so to do, he may-

(i) order the same to be sold at the controlled price, if any, fixed for essential commodity under this Act or under any other law for the time being in force; or

(ii) where no such price is fixed, order the same to be sold by public auction:

8 [***]

(3) where any essential commodity is sold, as aforesaid, the sale proceeds thereof, after deduction of the expenses of any such sale or auction or other incidental expenses relating thereto, shall-

(a) where no order or confiscation is ultimately passed by the Collector,

(b) where an order passed on appeal under sub-section (1) of section 6C so requires, or

(c) where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under this section, the person concerned is acquitted,

be paid to the owner or the person from whom it is seized.]

STATE AMENDMENT

9 Bihar

For section 6A, substitute the following section, namely:--

"6A. Confiscation of foodgrains, edible oilseeds, edible oils, etc.--(1) Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto it shall be reported without any reasonable delay to the Collector of the district in which such essential commodity is seized and the Collector may, if he thinks it expedient so to do, inspect or cause to be inspected such essential commodity, whether or not the prosecution is instituted for the contravention of such order and the Collector, if satisfied that there has been a contravention of the order, may order confiscation of--

(a) the essential commodities so seized;

(b) any package, covering or receptacle in which such essential commodity is found; and

(c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity:

Provided that, without prejudice to any action which may be taken under any other provision of this Act, no foodgrains or edible oilseeds seized in pursuance of an order made under section 3 in relation thereto from producer shall, if the seized foodgrains or edible oil-seeds have been produced by him, be confiscated under this section.

(2) Where the Collector, on receiving a report of seizure or in inspection of any essential commodity under sub-section (1), is of the opinion that such essential commodity is subject to speedy and natural decay or that it is otherwise, expedient in the public interest so to do, he may order the same to be sold at the controlled price if any, fixed under any law for the time being in force.

(3) In the case of foodgrains, where there is no controlled price, the Collector, if he thinks fit, may order the foodgrains seized under sub-section (1) to be sold through fair price shops at the price fixed by the Central Government or the State Government, as the case may be for the sale of such foodgrains to the public through these shops or may order such foodgrains by public auction.

(4) The Collector shall whenever it is practicable so to do having regard to the nature of the essential commodity take and preserve sample of the same in the prescribed manner before its sale or distribution.

(5) Where any essential commodity is sold as aforesaid, the sale proceeds thereof, after deduction of all expenses of the sale or auction, as the case may be, shall--

(a) where no order of confiscation is ultimately passed by the Collector; or

(b) where an order passed on appeal under sub-clause (1) of section 6C so requires; or

(c) in the case of prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under this section and where the person concerned is acquitted to paid to the owner thereof or the person from whom it is seized:

Provided that in the case of foodgrains sold through fair price shops in accordance with sub-sections (2) and (3) the owner shall be paid for the foodgrains so sold, the price fixed by the State Government, for retail sale of such foodgrains through such shops less all expenses of sale or auction under sub-sections (2) and (3).

(6) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974), when Collector or the appellate authority is seized with the matter under this section no court shall entertain any application in respect of essential commodities, any package covering, receptacle any animal, vehicle or other conveyance used in carrying such commodities as far as its release, distribution etc. is concerned and the jurisdiction of Collector or the appellate authority with regard to the disposal of the same shall be exclusive.

(7) The State Government may by notification in the Official Gazette, authorise any officer not below the rank of sub-divisional Magistrate, to discharge all or any of the functions of a

Collector under this section.

(8) The Collector shall for the purposes of this Act have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when making enquiries under this section in respect of following matters, namely:--

(a) receiving evidence on affidavits;

(b) summoning and enforcing the attendance of any person and examining him on oath; and

(c) compelling the production of documents.

(9) All enquiries and proceedings under this section before the Collector and the appellate authority shall be deemed to be judicial proceeding and while discharging functions under this section the Collector and the appellate authority shall be deemed to be a Court.

Explanation.--For the purposes of this section the Collector shall include 'Additional Collector' and any officer specially authorized under subsection (7)".

10 Maharashtra

For section 6A, substitute the following section, namely;--

"6A Confiscation of seized commodities,--(1) Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, a report to that effect shall, without any unreasonable delay be sent to the Collector within whose jurisdiction the seizure is made, and the Collector may, if he thinks it expedient so to so, inspect or cause to be inspected such essential commodity, and whether or not a prosecution is instituted for the contravention of such order, the Collector, if satisfied that there has been contravention of the order, may order confiscation of-

(a) the essential commodity so seized;

(b) any package, covering or receptacle in which such essential commodity is found; and

(c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity:

Provided that without prejudice to any action that may be taken under any other provision of this Act, no foodgrains or edible oilseeds seized in pursuance of an order made under section 3 in relation thereto from a producer shall, if the seized foodgrains or edible oilseeds have been produced by him, be confiscated under this section:

Provided further that where any animal, vehicle, vessel or other conveyance is used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay in lieu of its confiscation a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried.

(2) Where the Collector on receiving a report of seizure or on inspection of any essential commodity under sub-section (1) is of the opinion that such essential commodity is subject to speedy and natural decay or that it is otherwise expedient in the public interest so to so , he may order the same to be sold at the controlled price if any, fixed under any law for the time being in force; or where no such price is fixed by auction:

Provided that, in the case of foodgrains where there is no controlled price, the Collector may order the foodgrains seized to be sold through fair price shops at the price fixed by the Central Government or the State Government as the case may be for the sale of such foodgrains to the public through these shops:

Provided further that, whenever it is practicable so to so, having regard to the nature of the essential commodity, he shall take and preserve sample of the same before its sale or auction.

(3) Where any essential commodity is sold as aforesaid, the sale proceeds thereof after deduction of the expenses of the sale or auction, as the case may be, shall--

(a) where no order of confiscation is ultimately passed by the Collector; or

(b) where an order passed, on appeal under sub-clause (1) of section 6C so requires; or

(c) in the case of a prosecution being instituted for the contravention of the order in respect of which an order of confiscation has been made under be paid to the owner thereof or the person from whom it is seized:

Provided that, in the case of foodgrains sold through fair price shops in accordance with the first proviso to sub-section (2) the owner shall be paid for the foodgrains so sold the price fixed by the State Government, for retail sale of such foodgrains through such shops, less all expenses of sale or auction under sub-section (2)."

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1. Inserted by Act 25 of 1966, section 3 (w.e.f. 3-9-1966).

2. Section 6A renumbered as sub-section (1) thereof by Act 92 of 1976, section 4 (w.e.f. 2-9-1976).

3. Substituted by Act 36 of 1967, section 4, "foodgrains, edible oilseeds or edible oils are seized" (w.e.f. 30-12-1967).

4. Substituted by Act 92 of 1976, section 4, for "it may be produced without any unreasonable delay, before" (w.e.f. 2-9-1976).

5. Substituted by Act 92 of 1976, section 4, for "if satisfied" (w.e.f. 2-9-1976).

6. Substituted by Act 30 of 1974, section 4, for "may order confiscation of the essential commodity so seized" (w.r.e.f. 22-6-1974).

7. Inserted by Act, 92 of 1976, section 4, (w.e.f. 2-9-1976).

8. Proviso substituted by Act 18 of 1981 as amended by Act 34 of 1993 for a period of fifteen years which now stands ceased to have effect after the expiry of fifteen years. See Appendix-- Section 4 of the Essential Commodities (Special Provisions) Act, 1981 (18 of 1981).

9. Vide Bihar Act 9 of 1978, section 4 (w.e.f. 6-9-1978).

10. Vide Maharashtra Act 1 of 1976, section 4 (w.r.e.f. 12-11-1975).

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