Bimal Kumar Agarwal Vs. State of Bihar and ors.

Bimal Kumar Agarwal Vs. State of Bihar and ors.

SooperKanoon Citation : sooperkanoon.com/517304

Court : Jharkhand

Decided On : Apr-15-2003

Reported in : [2003(2)JCR689(Jhr)]

Judge : Tapen Sen, J.

Acts : Essential Commodities Act, 1955 - Sections 6, 6A and 7

Appeal No. : C.W.J.C. No. 3476 of 1999 (R)

Appellant : Bimal Kumar Agarwal

Respondent : State of Bihar and ors.

Advocate for Def. : Pradeep Modi, Adv.

Advocate for Pet/Ap. : S.L. Agarwal, Adv.

Disposition : Appeal allowed

Judgement :

Tapen Sen, J.

1. Heard Mr. S.L. Agarwal, learned counsel for the petitioner and Mr. Pradeep Modi, learned G.P.-I for the respondents.

2. The writ petitioner is aggrieved by the order dated 26/10/1999 (Annexure-3) passed by the respondent No. 2 in Revenue Miscellaneous Case No. 86/97-98 by which he passed an order of confiscation under the provision of Section 6A of the Essential Commodities Act. The short facts which are necessary to be taken note of for the adjudication of this case is that pursuant to an inspection in the business premises of the petitioner on 22.12.1997, certain irregularities were detected and consequently, the stock-in-trade were seized and an F.I.R. was lodged with the police under Section 7 of the aforementioned Act. Thereafter, a confiscation proceeding was initiated on the basis of the report sent to the Deputy Commissioner by the Special Officer (Ration), Jamshedpur and by an order dated 29/12/1997, the Deputy Commissioner initiated the confiscation proceeding which was registered as Revenue Miscellaneous (Confiscation) Case No. 86/1997-98. Upon notices having been received, the Petitioner appeared and filed his cause and took defences to which he was entitled to in accordance with law. It has been stated at Paragraph-9 of the Writ Application that the matter was heard in January, 1999, whereafter, orders were reserved by the Deputy Commissioner and on 26/10/1999, he dropped the proceeding in respect of Pulses but confiscated Wheat products, Maize and Rice on grounds mentioned in the said order.

3. According to Mr. S.L. Agarwal, learned counsel for the petitioner the criminal case which was simultaneously instituted namely Pursudih P.S. Case No. 207/1997 was challenged under the inherent jurisdiction of this Court under Section 482 Cr. P.C. vide Criminal Miscellaneous No. 7530 of 1999 (R). By Judgment dated 05/03/2003, an Hon'ble Single Judge of this Court decided the case on merits and was pleased to quash the entire criminal prosecution as also the order taking cognizance. A photocopy of the certified copy of the judgment referred in the aforementioned case has been brought on record vide the supplementary affidavit filed on behalf of the petitioner on 13/03/2003. In that view of the matter and in view of the quashing of the entire criminal case, the operative effect of Section 6(c)(ii) of the Essential Commodities Act, 1959 shall now enure to the benefit of the Petitioner. Section 6 (c) (ii) provides, inter alia, that where an order of confiscation is either modified or annulled by the judicial authority or when the prosecution instituted ends in acquittal and in either case, if it is not possible to return the commodities seized, then such person as per the provisions of Sub-

section (3) of Section 6-A shall be paid the price therefor as if the essential commodities had been sold to the Government together with the reasonable interest calculated from the day of seizure.

4. Consequently, the order dated 26.10.1999 is quashed and the Deputy Commissioner is directed to act in terms of Section 6(c) (ii) and if any bond etc. had been executed, then the same should be discharged.

5. With the aforesaid observationsand directions, this writ petition is allowed.No order as to costs.