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Court : Rajasthan

Decided On : Jul-19-1978

Reported in : 1978(11)WLN290

Judge : K.D. Sharma, J.

Appeal No. : S.B. Cr. Revision No. 111 of 1978

Appellant : Mohan Singh

Respondent : State of Rajasthan

Disposition : Petition dismissed

Judgement :

K.D. Sharma, J.

1. Heard learned Counsel for the petitioner and perused the Order of the Sessions Judge, Jalore, dated 17th March, 1978. whereby the order passed by the Collector and District Magistrate, Jalore, dated 27th May, 1977, under Section 6A of the Essential Commodities Act, 1955, hereinafter referred to as the Act, misacting the truck alleged to have been carrying essential commodity, i.e., rice, was set aside the case sent back to the Collector and District Magistrate Jalore for fresh decision according to law after complying with the provisions of Section 5 of the said Act.

2. The only contention raised before me by the learned Counsel for the petitioner is that there has been no contravention of the Rajasthan Rice (Export Control) Order, 1977 and the Rajasthan Food grains (Restrictions on Border Movement) Order, 1959, and so the Collector and District Magistrate is not authorized to order the confiscation of the truck carrying rice at the time of its seizure by the Enforcement Officer on 12th May, 1977.

4. It was further contended by the learned Counsel for the petitioner that the two Orders mentioned above have been subsequently repealed by the Central Government on 20th September 1977 and as they were temporary enactments, so the proceeding for confiscation of the truck in question could continue after their repeal.

5. I have considered the above contentions. It may be observed at the outset that the provisions of Section 6B of the Act are mandatory in nature and the confiscation of the truck can only be made after complying with these provisions. The Collector and District Magistrate, Jalore, confiscated the truck illegally without giving the owner of the truck a notice in writing informing him of the grounds on which it was proposed to be confiscated and without giving him an opportunity of being heard and of making a representation in writing against the grounds of confiscation. The Sessions Judge, Jalore therefore committed no error in sending the case back to the Collector and District Magistrate, Jalore, for complying with the provisions of Section 6B of the Act before passing any order under Section 6A thereof. It will be open for the petitioner to take all those grounds which he has taken before me in the representation which he may file in writing before the Collector and District Magistrate in response to the notice under Section 6B of the Act.

6. The revision-petition filed by the petitioner has therefore no force and is hereby dismissed summarily.