

**In Re: Pesala Subrahmanyam**

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**Court :** Chennai

**Decided On :** Sep-14-1949

**Reported in :** AIR1950Mad308a

**Judge :** Somasundaram, J.

**Acts :** Essential Supplies (Temporary Powers) Act, 1946 - Sections 3(2)

**Appeal No. :** Criminal Revn. No. 1159 and Cri. Revn. Petn. No. 1099 of 1948

**Appellant :** In Re: Pesala Subrahmanyam

**Advocate for Def. :** Asst. Public Prosecutor

**Advocate for Pet/Ap. :** K.S. Jayarama Iyer, ; C.K. Venkatanara and ;Simham, Adv.

**Disposition :** Petition allowed

**Judgement :**

ORDER

**Somasundaram, J.**

1. In this case the petitioner has been convicted for having sold on 10th March 1948 a bag of salt at Rs. 5-4-0 when the controlled rate was Rs. 3-4-7 a bag. The rate of salt was fixed by means of a notification issued by the Collector of the

district in the District Gazette. The notification is issued under Section 3 (2) (c) of Central Act XXIV [24] of 1946. Under that section the fair price has to be fixed by notified order. Notified order has been defined in the Act as an order notified in the Official Gazette. Official Gazette has not been defined in the Act. But under the General Clauses Act it means the Gazette of India or as the case may be the gazette of a province. In this province the Official Gazette is Fort Saint George Gazette. It is conceded by the Public Prosecutor that there is no notification in the Fort Saint George Gazette corresponding to the notification in the Nellore Gazette. The relevant notification of the Collector in the Nellore Gazette, without its being published also in the Fort Saint George Gazette is not valid.

2. The accused cannot be convicted for an offence under a notification which is invalid. The conviction and sentence are therefore set aside and the accused is acquitted. The order of confiscation also is set aside. The salt bag or its value will be returned to the petitioner.

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