

**In Re: Sala Mahammad**

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**Court :** Chennai

**Decided On :** Feb-08-1946

**Reported in :** AIR1946Mad413; (1946)1MLJ437

**Appellant :** In Re: Sala Mahammad

**Judgement :**

ORDER

**Kuppuswami Ayyar, J.**

1. The petitioner has been sentenced to pay a fine of Rs. 10,000 for having contravened the provisions of the Madras Rationing Order, Clause 4, read with Section 81(4) of the Defence of India Rules. He is a wholesale dealer in rice and paddy at Tellicherry and the contravention consisted in selling paddy to two persons in Kallai, outside the Municipal limits of Tellicherry and he is said to have contravened by the sale, the provisions of Clause 4 of the Madras Rationing Order, which runs thus:

No person other than an authorised wholesale distributor, an authorised retail distributor or an authorised establishment shall, on or after the rationing date, supply or offer or attempt to supply to any person any rationed article.

In this case, it is not disputed that he is a person other than ' an authorised wholesale distributor, an authorised retail distributor, or an authorised establishment.' No doubt, he has a licence to sell paddy and rice, but then the

expression ' authorised wholesale distributor ' is defined in the order as a person with an authorisation in respect of a ' rationed article '. ' Rationed article ' is defined to be 'any article which the Provincial Government may by notification in the official Gazette in respect of any rationed area specify in this behalf.' Rice and paddy, that were sold, are rationed articles in Tellicherry town, where the sale is said to have been effected. But the petitioner has not obtained the permit entitling him to sell in the area any rationed article. Therefore he is not an ' authorised wholesale distributor ' as defined in the order. Such a person shall not sell or offer or attempt to sell to any person any rationed article. The expression used in the order is ' any person ' and not merely ' a person living in the rationed area '. So the petitioner is a person other than an ' authorised wholesale distributor ', as defined in the order and he has sold to a person paddy, which is admittedly a rationed article.

2. But what is urged before me is that an article will be a ' rationed article ' only if it is to be sold for use in a rationed area and, if it is to be used or dealt with in a place other than the rationed area, it will not be a ' rationed article.' I do not think that I will be justified in accepting this contention, for, then we would have had, instead of the expression ' any person ', this description, namely, ' a person living in the rationed area requiring the article in the rationed area ' which is not there. Therefore, the participle ' rationed ' must be understood as referring to the article and not to the use to which it is put or the place where it is to be used. The schema of the Rationing Order clearly indicates that it deals only with transactions in respect of rationed articles which are sold and purchased in the area. Therefore, it has reference only to the sale or purchase of the articles and not the user. If this is so understood, the petitioner is guilty.

3. As regards the sentence, the petitioner has been sentenced to pay a fine of Rs. 10,000. I should think it is excessive. It is not necessary to give an exemplary punishment for this reason. This firm has been supplying articles--even rationed articles--not only to persons in Tellicherry but also to persons living outside. In this case, the persons, to whom the paddy was supplied, are living outside the rationed area and they are persons who have been purchasing for use outside the area. Consequently, the purchase was made bona fide and in these circumstances the fine of Rs. 10,000 is excessive and I accordingly reduce it to Rs. 500.

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