



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

WP(C) NO. 31340 OF 2019

PETITIONER:

NIRADEEPAM ROLLER FLOUR MILL
THURUTHY PO, CHANGANACHERRY,
KOTTAYAM DISTRICT, 686 535,
REP. BY ITS MANAGING PARTNER P.F.SHAJI.

BY ADV SANIL JOSE

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY,
FOOD AND CIVIL SUPPLIES DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001
- 2 THE DISTRICT COLLECTOR
COLLECTORATE, KOTTAYAM- 686 002
- 3 DISTRICT SUPPLY OFFICER
DISTRICT SUPPLY OFFICE, CIVIL STATION,
COLLECTORATE PO, KOTTAYAM - 686 002
- 4 TALUK SUPPLY OFFICER
TALUK SUPPLY OFFICE, REVENUE TOWER,
CHANGANACHERRY- 686 101

SRI. ARUN AJAY SHANKAR - GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



MOHAMMED NIAS C.P., J

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W.P(C) No. 31340 of 2019

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Dated this the 8th day of April, 2025

J U D G M E N T

The petitioner is a roller flour mill in wheat products. On 20.04.2007, a raid was conducted by the Taluk Supply Officer and the Rationing Inspector at the instance of the 2nd respondent District Collector which led to the seizure of 2,34,610 kg of wheat from the firm's godown alleging that the said wheat was exclusively meant for distribution through public distribution system and that the petitioner had possessed the same for illegal sale. After the confiscation, prosecution was launched against the managing partner alleging offences under Section 3(1) of the Essential Commodities Act, 1955 and Clause 5A of the Kerala Rationing Order, 1966. Crime No. 247/2007 was registered against the managing partner and he was charge sheeted for the above offences. C.C. No.656/2007 was tried before the Judicial First Class Magistrate Court-I, Changanacherry, which resulted in the



acquittal of the firm and the Managing Partner through Ext.P1 judgment dated 13.03.2015.

2. The petitioner contends that under Section 6C (2) of the Essential Commodities Act, 1955, in a case where prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6A, the person concerned is acquitted, and if it is not possible for any reason to return the essential commodity seized, such person shall be paid the price thereof as if the essential commodity had been sold to the government, with reasonable interest calculated from the date of the seizure of the essential commodity. The petitioner claims that he had purchased the wheat as per Exts.P2 to P4 invoices from other States. The petitioner submits that he had also met the expense for transportation. Accordingly, the petitioner reckons Rs.12 as a reasonable rate per kilogram. It is stated that 2,34,610 kg of wheat was seized from the godown. Accordingly, the firm is entitled to a refund of an amount of Rs. 28,15,320/- with 12% from 20.04.2007 and making the above request, the petitioner had preferred Ext.P5 before the District Collector. Since no decision was



taken on the same, he approached this Court by filing W.P.(C) No.36483 of 2018, which was disposed of directing the District Collector to take a decision through Ext.P6 judgment. Ext.P7 order was passed by the District Collector ordering to release Rs.14,49,440/- being the controlled price of the wheat seized. The writ petition is filed challenging Ext.P7.

3. The learned Counsel for the petitioner argues that he is entitled to get the procurement price of the food grains seized going by Section 6C (2) read with 3B of Section 3 of the Essential Commodities Act. This is opposed by the learned Government Pleader contending that the petitioner is only entitled to controlled price according to Section 6A (3).

4. The relevant portions are extracted here under;

“ **6A. Confiscation of essential commodity.**— Where any [essential commodity is seized] in pursuance of an order made under section 3 in relation thereto, [a report of such seizure shall, without unreasonable delay, be made to] the Collector of the district or the Presidency town in which such [essential commodity is seized] and whether or not a prosecution is instituted for the contravention of such order, the Collector [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 [may order confiscation of -

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[(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 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 such 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:

Provided that in case of foodgrains, the Collector may, for its equitable distribution and availability at fair prices, order the same to be sold through fair price shops at the price fixed by the Central Government or by the State Government, as the case may be, for the retail sale of such foodgrains to the public.

(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 thereof or the person from whom it is seized.

**6C Appeal -**

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(2) Where an order under section 6A is modified or annulled by such judicial authority, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under section 6A, the person concerned is acquitted, and in either case it is not possible for any reason to [return the essential commodity seized], [such persons shall, except except as provided by sub-section (3) of section 6A, be paid] the price therefore [as if the essential commodity,] had been sold to the Government with reasonable interest calculated from the day of the seizure of [the essential commodity] [and such price shall be determined—

- (i) in the case of food grains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (3B) of section 3;
- (ii) in the case of sugar, in accordance with the provisions of subsection (3C) of section 3 ;and
- (iii) in the case of any other essential commodity, in accordance with the provisions of subsection (3) of section 3.]

3B of Section 3 of the Essential Commodities Act - Where any person is required, by an order made with reference to clause (f) of sub-section (2), to sell to the Central Government or a State Government or to an officer or agent of such Government or to a Corporation owned or controlled by such Government, any grade or variety of foodgrains, edible oilseeds or edible oils in relation to which no notification has been issued under sub-section (3A), or such notification having been issued, has ceased to be in force, there shall be paid to the person concerned, notwithstanding anything to the contrary contained in sub-section (3), an amount



equal to the procurement price of such foodgrains, edible oilseeds or edible oils, as the case may be, specified by the State Government, with the previous approval of the Central Government having regard to—

- (a) the controlled price, if any, fixed under this section or by or under any other law for the time being in force for such grade or variety of foodgrains, edible oilseeds or edible oils;
- (b) the general crop prospects;
- (c) the need for making such grade or variety of foodgrains, edible oilseeds or edible oils available at reasonable prices to the consumers, particularly the vulnerable sections of the consumers; and
- (d) the recommendations, if any, of the Agricultural Prices Commission with regard to the price of the concerned grade or variety of foodgrains, edible oilseeds or edible oils.]

5. As regards the contention of the respondents that the petitioner need be paid only the controlled price, it has to be noted that as per Section 6A (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 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 such essential commodity under the Act. Section 6A (3) deals with a situation in which such a commodity is subject to speedy



and natural decay, in which event, the sale proceeds thereof is liable to be returned if ultimately no confiscation order is passed by the District Collector. In such a case when prosecution instituted for contravention of the order results in an acquittal, the person needs to be paid only the controlled price.

6. In the instant case, the relevant Section that governs is Section 6C (2), as there is no case that the commodity seized is of the nature mentioned in Section 6A (2). As Section 6C (2) applies, the petitioner is entitled to be paid the price thereof as if it had been sold to the government with reasonable interest calculated from the day of seizure, and such price shall be determined – in the case of food grains, edible oilseeds or edible oils, in accordance with the provisions of sub-Section 3B of Section 3.

7. Section 3B states that an amount equal to the procurement price of such foodgrains, edible oilseeds or edible oils, as the case may be, specified by the State Government, with the previous approval of the Central Government having regard to—(a) the controlled price, if any, fixed under this section or by or under any other law for the time



being in force for such grade or variety of foodgrains, edible oilseeds or edible oils; (b) the general crop prospects; and the other conditions mentioned in Section 3B is to be followed.

8. As Section 6C (2) applies, the stand of the respondent that the petitioner needs to be paid only the control price is wrong and against the statutory provisions mentioned above. Under such circumstances, Ext.P7 is quashed. There will be a direction to the 2nd respondent to calculate the procurement price in terms of Section 3B of Section 3, if not ascertained so far. The petitioner is also liable to be paid reasonable interest, going by the provisions of Section 6C(2), from the date of the seizure. Fresh orders shall be passed by the 2nd respondent within two months from the date of receipt of a copy of the judgment and in terms of the findings rendered above.

The impugned order is quashed, and the writ petition is allowed as above.

Sd/-
MOHAMMED NIAS C.P.
JUDGE



APPENDIX OF WP(C) 31340/2019

PETITIONER EXHIBITS :

- EXHIBIT P1** TRUE PHOTOCOPY OF THE JUDGMENT DATED
13/3/2015 IN C.C.NO 656/2007 , JUDICIAL FIRST
CLASS MAGISTRATE COURT I , CHANGANACHERRY.
- EXHIBIT P2** TRUE COPY OF THE INVOICE NO.397 DATED
13/8/2006 ISSUED SHAMBU DAYAL AGRO FOOD PVT
LTD. DELHI TO THE PETITIONER.
- EXHIBIT P3** TRUE PHOTOCOPY OF THE BILL NO.18 DATED
21/8/2006 ISSUED BY SHRI BATH TRADERS ,
BANKHEI, MADYA PRADESH TO THE PETITIONER.
- EXHIBIT P4** TRUE PHOTOCOPY OF THE INVOICE NO.001130 DATED
26/3/2007 ISSUED BY BABANLAL BHIKULAL
AGARWAL, RAVER, MAHARASHTRA TO THE
PETITIONER.
- EXHIBIT P5** TRUE PHOTOCOPY OF THE APPLICATION DATED
2/7/2018 SUBMITTED BY THE PETITIONER UNDER
SECTION 6C(2) OF THE ESSENTIAL COMMODITIES
ACT, 1955 BEFORE THE 2ND RESPONDENT.
- EXHIBIT P6** TRUE PHOTOCOPY OF THE JUDGMENT DATED
9/11/2018 IN W.P.(C) O.36483/2018 OF THIS
HON'BLE COURT.
- EXHIBIT P7** TRUE PHOTOCOPY OF THE ORDER DATED 29/5/2019
IN FILE NO.C.S4-1123/07 PASSED BY THE 2ND
RESPONDENT.
- EXHIBIT P8** TRUE PHOTOCOPY OF THE REPRESENTATION DATED
17/6/2019 SUBMITTED BY THE PETITIONER BEFORE
THE 3RD RESPONDENT.

// True Copy // PA To Judge