



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6260 of 2026

Omprakash Gupta ***Petitioner***

Mr. Amiya Kumar Mishra, Advocate

-versus-

The Collector, Balasore and ***Opp. Parties***
others

Mr. P.K. Mohanty, ASC
Mr. P.K. Sahoo, ASC

CORAM:
JUSTICE MRUGANKA SEKHAR SAHOO

ORDER
27.02.2026
(Hybrid Mode)

Order No.

01.

1. Heard learned counsel for the petitioner at length.
2. Concededly the petitioner's vehicle was authorized to transport and was carrying the oil purchased by dealer from oil depot at Balasore to Retail Point at Keonjhar. The petitioner is a transporter of fuel oil an essential commodity having entered into a contract with the Indian Oil Corporation Limited for transportation of bulk petroleum product for three years with effect from 16.12.2022 upto 15.12.2022. Copy of the said transportation contract for transportation of bulk petroleum products has been annexed to the writ petition marked as Annexure-2.



3. Pursuant to the said contract the petitioner-transporter was directed/entrusted to transport eight Kiloliters of petrol and four Kiloliters of diesel by the Indian Oil Corporation Limited from Somanathpur Depot at Balasore to Maata Shree Filling Station (KSK), At/Po-Bhanda, District-Keonjhar by the oil tanker No.OD-22D-0571.

The oil has been purchased by the invoice dated 11.10.2023 (copy annexed as Annexure-3 to the writ petition) indicating the name of the supplier-IOCL and the name of consignee-dealer.

4. Oil was being transported, on the way to the destination as it is alleged, the oil was stolen from the tanker and transferred by utilizing a Ashok Leyland Pick-up van carrying plastic barrels. The seizure list produced before the learned JMFC, Balasore dated 12.10.2023 indicates the articles seized as the following:

- “(1) 3 nos of 200 Ltrs capacity of sky colour plastic barrel containing about 600 Ltrs petrol*
- (2) 3 nos of 200 Ltrs capacity of sky colour plastic barrel containing about 600 Ltrs crude oil*
- (3) One Honda GX 80 motors along with 10 metres plastic pipe.*
- (4) Two numbers of plastic funnel*
- (5) Ashok Leyland Mini Pick-up bearing Regd No-OD- 01F-7814.”*

5. After the incident of ‘theft’, the petitioner-transporter and owner of the vehicle carrying the oil also lodged an F.I.R. dated 12.10.2023 copy of which



has been marked to the writ petition as Annexure-5 series. Pursuant to the said F.I.R., the seizure list has been enclosed marked as Annexure-6 which indicates the following articles to have been seized:

- “1. One Re particulars of Oil Tanker bearing Regd No-OD-22D-0571 stand the name of Omprakash Gupta.*
- 2. One certificate of Regn bearing Regn. No.OD-22D-0571*
- 3. One permit ID respect of goods permit of vehicle bearing Regd No-OD-22D-0571*
- 4. One Insurance Certificate (The new India Assurance Co LTD) having the policy No.55080131220100005350 of vehicle bearing Regn No. OD-22D-0571*
- 5. One licence of Petroleum product on land by Tanker Lorry Regn No. OD-22D-0571 by Petroleum and explosive safety organisation, BBSR*
- 6. One certificate of verification by Govt. of ODISHA”.*

6. The Collector and District Magistrate, Balasore being the authority under the Essential Commodities Act passed the following order dated 24.11.2023 in E.C. Case No.02 of 2023:

“Having considered the submissions of Learned APP for prosecution, Advocate for O.P. No-6 and materials on record following orders are passed:-

“1. The seized oil tanker bearing no.OD-22D-0571 is released on interim basis in favour of O.P. No.6 subject to compliance of following conditions:-

(i) O.P No-6, Sri Omm Prakash Gupta, owner of the oil tanker bearing Registration No OD-22D-0571 is to file Indemnity Bond to the tune of Rs 2,00,000/- (Rupees two lakh only).



(ii) He should produce the vehicle as and when so directed by this court as well as other competent courts.

(iii) He shall not change ownership of the vehicle until final disposal of the case.

(iv) He shall not change the nature, engine and mode of the vehicle till disposal of the case.

(v) He is to undertake the number of such type of vehicle he has owned.

The seized petrol and diesel in the tanker as well as Ashok Leyland Pick-up van is to be returned to I.O.C.L., Balasore Depot, Somanathpur Industrial Estate, Somanathpur, Odisha for fresh transportation which is to be acted upon by the IIC, Industrial Area P.S. The C.S.O., Balasore is to supervise the exercise of return of seized petrol and diesel in the oil tanker as well as seized Ashok Leyland Pick-up van bearing Registration No.OD-01F-7814.

3. The seized Ashok Leyland Pick-up van bearing registration No.OD-01F-7814 shall be kept under seizure as it is till further order by the competent court.

Besides the case is to be taken up prior to the date fixed as and when opposite party No.6 shall comply with the all conditions for release of Oil Tanker for issue of release order.”

7. The petitioner furnished indemnity bond as directed. It is stated and submitted the petitioner has complied with the order dated 24.11.2023 in all aspects.

8. It is submitted by Mr. Mohanty, learned Additional Standing Counsel for the State on being repeatedly asked and after much persuasion who was the owner of the oil tanker that carried the fuel oil from the OICL depot from which oil was allegedly stolen, on



the way; he submits that the Ashok Leyland Pick-up Van which was intended to carry the stolen oil in barrels belongs to one Nasima Bibi.

Nasima Bibi is not the petitioner in this case nor a party.

9. He further submits that the oil belongs to Indian Oil Corporation Limited though it was specifically asserted by the petitioner that the dealer had purchased the oil from Indian Oil Corporation Limited which was transported by the petitioner-transporter on the basis of letter dated 28.12.2022 for road transportation of bulk petroleum products for three years with effect from 16.12.2022 upto 15.12.2025. The oil was transported from Indian Oil Corporation Limited, Balasore purchased by the dealer i.e. Maata Shree Filling Station (KSK), At/Po-Bhanda, District-Keonjhar to be transported by the petitioner.

10. On being asked by which order the confiscation proceeding was started and by which order it was concluded, it is submitted by the learned ASC for the State the E.C. Case No.02 of 2023 was initiated by order dated 08.11.2023 i.e. confiscation proceeding under section 6-A of the Essential Commodities Act, 1955 relating to Industrial Area P.S. Case No.185 of 2023. It is submitted that the final order in the said confiscation proceeding has not been passed.

11. On being asked what is the nature of the order dated 05.12.2025 passed by the authority in the E.C.



case, the learned ASC takes a long pause and does not answer the provision under which such order has been passed imposing fine. He submits that 05.12.2025 is the last order.

Apparently, while passing the order dated 05.12.2025 the authority has not referred to any provision or the context in which during pendency of the confiscation proceeding he has directed deposit of Rs.4,00,000/- to the owner of the transporting vehicle that was transporting the oil purchased by the dealer as indicated above. It has been directed "*the owner of the tanker bearing No.OD-22D-0571 i.e. opposite party no.6-Omm Prakash Gupta is directed to deposit Rs.4,00,000/- (Rupees four lakh) ... in the office of CSO, Balasore as fine in shape of treasury challan through proper receipt in lieu of confiscation within three months. After compliance of the above order, further course of action for release the cost of returned petrol/crude oil in favour of OP No.6 shall be taken up.*"

12. The learned Additional Standing Counsel, Mr. P.K. Sahoo supplements the arguments of Mr. P.K. Mohanty, the learned Additional Standing Counsel and submits that Section 6-A proviso deals with the vehicle carrying the essential commodity which is actually reiteration of the submissions of Mr. Mohanty that has been recorded above.

On being repeatedly asked that by which order the confiscation proceeding was initiated by the



authority and by which order the final order was passed by the Collector in the confiscation proceeding, the learned Additional Standing Counsel, Mr. Sahoo has no answer, apart from saying that on 05.12.2025 the confiscation proceeding was initiated.

Though the order itself does not indicate much effort has been made by the learned Additional Standing Counsel, Mr. Sahoo appearing for the State to argue that the said order is an order of confiscation.

13. On being asked several times and after being given sufficient time, the learned ASC, Mr. Mohanty has not shown the Court any provision and apparently there is no such provision contained in the Essential Commodities Act, 1955 wherein during pendency of a proceeding under Section 6-A the oil purchased by the dealer from the seller-Indian Oil Corporation can be directed to be returned to the Indian Oil Corporation Limited. Evidently the purchaser dealer has not been made a party in the E.C. case. Further, there is no provision contained in the Essential Commodities Act, 1955 that would authorize the authority to impose a fine of Rs.4,00,000/- on the transporter from whose vehicle the oil was stolen during pendency of the Confiscation Proceeding. After the vehicle allegedly stilling the oil being transported i.e. the pick-up van with barrels is seized and subjected to confiscation proceeding.



14. As the learned ASC relies on the Section 6A(1), second proviso of the E.C. Act, the said provision is reproduced herein:

“[6A. Confiscation of essential commodity.—*[(1)] Where any 4[essential commodity is seized] in pursuance of an order made under section 3 in relation thereto, 5[a report of such seizure shall, without unreasonable delay, be made to] the Collector of the district or the Presidency town in which such 1[essential commodity is seized] and whether or not a prosecution is instituted for the contravention of such order, the Collector 2[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 3[may order confiscation of—*

*(a) the essential commodity so seized;
(b) any package, covering or receptacle in which such essential commodity is found; and
(c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity:]*

[Provided further that in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation, a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried by such animal, vehicle, vessel or other conveyance.]”

15. Perusal of the order dated 05.12.2025 reveals an interesting aspect regarding the witness and the evidence as recorded by the Collector and reads thus:



“On perusal of case record it appears that the Chief Depo Manager, IOCL, Somanathpur, Balasore was issued summon to appear before the Court of Collector, Balasore for adduce evidence on 30.01.2025 & 23.05.2025. Though the summon was properly served and returned to this court vide letter No.6374 dt.13.06.2025 of Tahasildar, Remuna but the Chief Depo Manager was remained absent.”

16. Though the submissions made by Mr. Sahoo, learned ASC regarding final order has been passed in confiscation proceeding is factually incorrect as the order itself does not say so and the authority has not recorded that how he has arrived at a conclusion or how he has initiated the confiscation proceeding or evaluated the evidence, assuming for the sake of argument, the said order is the final order passed in the confiscation proceeding, at running page-83 of the case brief internal page-4 of the order, the following has been observed by the Collector/Authority.

“In view of the above discussions, it is clear that there is evil intension of the OP No.6 & 7. Accordingly, the owner of the tanker bearing No.OD-22D-0571 i.e. OP No.6-Omm Prakash Gupta is directed to deposit Rs.4,00,000/- (Rupees four lakh) & the owner of the pick up van bearing No.OD-01F-7814 i.e. OP No.7, Nasima Bibi is directed to deposit Rs.2,00,000/- (Rupees two lakh) in the Office of CSO, Balasore as fine in shape of Treasury challan through proper receipt in lieu of confiscation within three months. After compliance of the above order, further course of action for release the cost of returned



petrol/crude oil in favour of OP No.6 shall be taken up.”

17. Both the learned Additional Standing Counsel for the State though have argued with much force and vehemence but have not been able to show prima facie, from the available records: when the confiscation proceeding was initiated and to what extent it has proceeded and when the final order has been passed is the same is not indicated in the order dated 05.12.2025.

Significantly, the authority has noted the non-appearance/absence of the principal witness on behalf of prosecution i.e. Chief Depo Manager, IOCL, Somanathpur where the stock originated for being transported to Keonjhar.

The order also does not refer to any other witness or material on record or any evidence to decide and conclude the confiscation of the vehicle owned by the petitioner i.e. OD-22D-0571-oil tanker which was used pursuant to the agreement of the Indian Oil Corporation Limited and the petitioner-transporter.

18. Issue notice along with this order to the opposite parties.

19. The learned Additional Standing Counsel upon advance copy served, appear and waive notice on behalf of the opposite party nos.1 and 2.



Notice to the opposite party nos.3 and 4 be issued by speed post with registration and proof of delivery. Requisites for issuance of notice to the opposite party nos.3 and 4 be filed within five working days fixing returnable date to 26.03.2026.

20. List in the week commencing 30.03.2026.

Liberty to mention.

I.A. No.3837 of 2026

21. Learned counsel for the petitioner as well as both the learned Additional Standing Counsel were heard extensively regarding scope of Section 6A(1) of the Essential Commodity Act. Learned counsel for the petitioner as well as both the learned Additional Standing Counsels reiterate their submissions as noted above.

22. Issue notice as above. Accept one set of process fee as well as postal requisites.

The learned Additional Standing Counsel upon advance copy served appear and waive notice on behalf of the opposite party nos.1 and 2.

Notice to opposite party nos.3 and 4 shall be issued along with the writ petition as directed above.

23. In the interim, it is directed that operation of the order dated 05.12.2025 (annexed to the writ petition marked as Annexure-23) regarding deposit of Rs.4,00,000/- by the petitioner-transporter shall remain stayed until further orders.



24. List in the week commencing 30.03.2026. Liberty to mention.

Issue urgent certified copy as per rules.

(Mruganka Sekhar Sahoo)
Judge

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