

Court No. - 18 (Through V.C.)

Case :- CRIMINAL REVISION No. - 5862 of 2024

Revisionist :- Puneet

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Ankit Agarwal

Counsel for Opposite Party :- G.A.

Hon'ble Manjive Shukla,J.

1. Heard Sri Ankit Agarwal, learned counsel appearing for the revisionist and learned Additional Government Advocate appearing for the State.
2. The instant criminal revision has been filed challenging therein, the order dated 17.02.2023 passed by the District Magistrate, Bulandshahr in Case No. 301 of 2023 (State of U.P. Vs. Puneet and Others) whereby, in exercise of power under Section 6-A of The Essential Commodities Act, 1955 (hereinafter referred to as 'the Act of 1955'), 304 bags of rice (each weighing 60 kg.) and the Truck No. UP30CT6161 had been confiscated in favour of the State.
3. The revisionist through this criminal revision has also assailed the judgment and order dated 25.07.2024 passed by the learned Special Judge (E.C. Act)/Additional Sessions Judge, Court No. 14, Bulandshahr in Criminal Appeal No. 84 of 2023 (Puneet Kumar Vs. State of Uttar Pradesh) whereby, the appeal filed by the revisionist had been dismissed and the order dated 17.02.2023 passed by the District Magistrate, Bulandshahr, had been affirmed.
4. The facts of the case, in brief, are that on 05.12.2022 at about 09:45 A.M., the Sub Divisional Magistrate, Sikandrabad informed the Supply Inspector, Sikandrabad that one truck had been taken into custody at Bilsuri Chauki. On the said information, the Supply

Inspector along with a Clerk reached on the spot and found the truck bearing registration No. UP13CT6161 was loaded with the bags of rice. The statement of the driver of the truck was taken who stated that owner of the rice is the revisionist. The driver further stated that the rice belongs to Public Distribution Scheme. Sri Gaurav Kumar, Marketing Inspector, Hat Shakha, Centre Sikandrabad also reached on the spot and he gave his report that 304 bags of rice, which have been seized, appear to belong the Public Distribution Scheme. A criminal case bearing F.I.R. No. 1068 of 2022 under Sections 420 I.P.C. and Section 3/7 of the Act of 1955, had been registered in Police Station Sikandrabad, District Bulandshahr.

5. The District Supply Inspector vide his letter dated 26.12.2022 submitted a report to the District Magistrate, Bulandshahr and on that basis, proceedings under Section 6-A of the Act of 1955 were initiated. The District Magistrate, Bulandshahr issued a show cause notice to the revisionist. The revisionist in response to the show cause notice submitted his reply and stated that the seized bags of rice belong to him. It was further stated that the revisionist is engaged in the business of purchase and sale of rice and he has the documents of purchase of the seized rice. In the reply, it was further stated that there is no material available on record, on the basis of which, the seized rice can be connected with the Public Distribution Scheme as nowhere the authorities have come up with a case that the seized rice has come from any licensed fair price shop under the Public Distribution Scheme.

6. The District Magistrate after considering the reply submitted by the revisionist against the show cause notice, had passed the order dated 17.02.2023 whereby, 304 bags of rice had been confiscated in favour of the State under Section 6-A of the Act of 1955.

7. The revisionist challenged the order dated 17.02.2023 passed by the District Magistrate, Bulandshahr in Case No. 191 of 2023 by filing

Criminal Appeal No. 84 of 2023 (Puneet Vs. State of U.P.) before the learned Special Judge (E.C. Act)/Additional Sessions Judge, Court No. 14, Bulandshahr. The Appellate Court had passed the judgment and order dated 25.07.2024 whereby, the Criminal Appeal No. 84 of 2023 filed by the revisionist, had been dismissed.

8. Learned counsel appearing for the revisionist has argued that the District Magistrate, Bulandshahr, while passing order under Section 6-A of the Act of 1955, has not considered that there is no material available on record, on the basis of which, the seized 304 bags of rice can be connected to the Public Distribution Scheme as there is no evidence that the seized rice has come from any licensed fair price shop of the Public Distribution Scheme or any store used under the said Scheme. It has further been argued that once there is no evidence to connect the seized rice from any fair price shop or store under the Public Distribution Scheme, the rice in question cannot be confiscated in exercise of power under Section 6-A of the Act of 1955.

9. Learned counsel appearing for the revisionist has also argued that under Section 6-A of the Act of 1955 only that essential commodity can be confiscated which had been seized for violation of any provision of the order framed under Section 3 of the Act of 1955. It has further been argued that the Government of U.P., in exercise of power under Section 3 of the Act of 1955, had framed The Uttar Pradesh Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016 (hereinafter referred to as 'the Order of 2016') and said order deals with the food grains to be distributed under the Public Distribution Scheme, therefore it is apparent that unless it is established that the seized rice belongs to the Public Distribution Scheme, there cannot be any violation of the Order of 2016 framed under Section 3 of the Act of 1955 and the seized rice cannot be confiscated under Section 6-A of the Act of 1955.

10. It has vehemently been argued on behalf of the revisionist that once there is no evidence that the seized rice has come out from any licensed fair price shop or store under the Public Distribution Scheme, the said rice in no way can be confiscated in exercise of power under Section 6-A of the Act of 1955.

11. Learned counsel appearing for the revisionist has thus argued that since neither the District Magistrate nor the appellate court has considered that there is no evidence on record on the basis of which the seized rice can be connected with the Public Distribution Scheme, the same cannot be confiscated under Section 6-A of the Act of 1955 as such, both the orders, impugned in this criminal revision, are unsustainable.

12. Learned Additional Government Advocate appearing for the State has argued that the rice in question had been seized and the driver had categorically stated that the same belongs to the Public Distribution Scheme therefore, the order passed by the District Magistrate under Section 6-A of the Act of 1955 cannot be faulted. The learned Additional Government Advocate appearing for the State though has opposed this criminal revision but could not point out any material available on record, on the basis of which, it can be said that the rice in question has come from any fair price shop or store under the Public Distribution Scheme.

13. I have considered the arguments advanced by the learned counsel appearing for the parties and have perused the record of the case.

14. It transpires from the record that 304 bags of rice had been confiscated in favour of the State under Section 6-A of the Act of 1955 treating the seized rice to be of the Public Distribution Scheme. It also transpires that except the vague statement given by the driver that the seized rice belongs to the Public Distribution Scheme, there is no

material available on record to connect the said rice to any licensed fair price shop or store under the Public Distribution Scheme.

15. For appreciating the arguments advanced by the learned counsels appearing for the parties, it is apt to have a look over the provisions of Section 6-A of the Act of 1955. The Section 6-A of the Act of 1955 is extracted as under:

" [6A. Confiscation of essential commodity.- [(1)] 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-

(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 that without prejudice to any action which may be taken under any other provision of this Act, no foodgrains or edible oilseeds in pursuance of an order made under section 3 in relation thereto from a producer shall, if the seized foodgrains or edible oilseeds have been produced by him, be confiscated under this section:

[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.]

(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.]"

16. I find that Section 6-A provides that the District Magistrate concerned can confiscate seized essential commodity if it had been seized for violation of any order made under Section 3 of the Act of

1955. The Government of Uttar Pradesh for regulating distribution of the food-grains to the residents of the State had framed an order in exercise of its power under Section 3 of the Act of 1955 in the name and style of “The Uttar Pradesh Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016”. The aforesaid Order of 2016 deals with the distribution of the food-grains under the Public Distribution Scheme. Thus, it is apparent that only that seized food-grains, which belong to the Public Distribution Scheme, can be confiscated by the District Magistrate concerned under Section 6-A of the Act of 1955 for any violation of the provisions made in the Order of 2016.

17. I find that except the vague confessional statement of the driver of the truck, there is no material on record to demonstrate that the seized rice has come either from any fair price shop or any store under the Public Distribution Scheme. Once there is no evidence on record to connect the seized rice with any fair price shop or store under the Public Distribution Scheme, it cannot be said that there has been any violation of the provisions made in the Order of 2016 therefore, by no stretch of imagination, the said seized rice can be confiscated under Section 6-A of the Act of 1955.

18. I further find that neither the District Magistrate, Bulandshahr, while passing order under Section 6-A of the Act of 1955 nor the appellate authority, while deciding appeal, has considered the aforesaid vital issue that without there being any evidence on record to connect the seized rice with the Public Distribution Scheme of the State of Uttar Pradesh, the 304 bags of rice belonging to the revisionist had been confiscated.

19. Learned counsel appearing for the revisionist, at this stage has informed to the Court that the aforesaid 304 bags of rice had already been auctioned and auction-purchaser had deposited the money in lieu of the auction-purchase.

20. In view of the aforesaid reasons, the order dated 17.02.2023 passed by the District Magistrate, Bulandshahr in Case No. 301 of 2023 (State of U.P. Vs. Puneet and Others) and the judgment and order dated 25.07.2024 passed by the learned Special Judge (E.C. Act)/Additional Sessions Judge, Court No. 14, Bulandshahr in Criminal Appeal No. 84 of 2023 (Puneet Kumar Vs. State of U.P.) are unsustainable.

21. Accordingly, this criminal revision is ***allowed***. The order dated 17.02.2023 passed by the District Magistrate, Bulandshahr in Case No. 301 of 2023 (State of U.P. Vs. Puneet and Others), to the extent of confiscation of 304 bags of rice (each weighing 60 kg), and the judgment and order dated 25.07.2024 passed by the learned Special Judge (E.C. Act)/Additional Sessions Judge, Court No. 14, Bulandshahr in Criminal Appeal No. 84 of 2023 (Puneet Kumar Vs. State of U.P.) are, hereby, set-aside. The opposite parties are hereby directed either to release the seized rice in favour of the revisionist or to pay him the amount which had been deposited by the auction-purchaser pursuant to the auction of 304 bags of rice, forthwith.

Order Date :- 14.8.2025

A. Mandhani/Anuj Singh