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HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 207 of 2012**

(Arising out of order dated 27.01.2012 in Criminal Appeal No. 211 of 2011 of the learned 2nd Additional Sessions Judge, Bilaspur)

- Basant Kumar Yadav S/o Shri Late Mohan Lal Yadav Manager Sai Prasad Gas Agency, Vyapar Vihar Bilaspur C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Food and Civil Supplies Department Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
2. Collector, Bilaspur
3. Food Controller Bilaspur, Collectorate Compound, Bilaspur (C.G.)
4. Food Inspector, In-charge, Vyapar Vihar Area, Collectorate Compound, Bilaspur (C.G.)

---- Respondents

For Petitioner	:	Shri Mateen Siddiqui, Advocate
For Respondents / State	:	Shri R.K. Gupta, Deputy Advocate General

Hon'ble Thottathil B. Radhakrishnan, Chief Justice
Order on Board

29.11.2017

1. Heard the learned Counsel for the Petitioner and the learned Deputy Advocate General.
2. The Petitioner was visited with an order under the Essential Commodities Act, 1955. He challenged it in a revision before the Sessions Court invoking Section 397 of the Cr.P.C. Since the order impugned by him was one for imposition of fine, the Sessions Court dismissed it. He challenged that matter before this Court by invoking Article 226 of the Constitution of India. Annexure P/7 order was issued by this Court on 21.07.2011 noticing that the order of the Collector issued under the provisions of the Essential Commodities Act, 1955 was appealable under Section 6C of that Act. The Petitioner was relegated to file such an appeal. He filed such an appeal before the Sessions Court. That has now been dismissed on the ground that the earlier order issued in Criminal Revision No.179/2007 was not set aside by this Court through Writ Petition (Cr.) No.5946 of 2008.

3. The order issued by this Court on 21.07.2011 in Writ Petition (Cr.) No.5946 of 2008 essentially paved way to the writ petitioner invoking Section 6C of the Essential Commodities Act, 1955 if he was lawfully entitled to sustain such appeal in competent jurisdiction. Therefore, to ensure clarity of order dated 21.07.2011 issued by this Court in Writ Petition (Cr.) No. 5946 of 2008; it is hereby ordered and clarified in exercise of authority under Article 226 and 227 of the Constitution that the order dated 30.08.2008 passed by learned 2nd Additional Session Judge, Bilaspur in Criminal Revision No.179 of 2007, affirming order dated 13.08.2007 passed by the Collector, Bilaspur in Food Case No.12/04-05 was in effect set aside by this Court through order on Writ Petition (Cr.) 5946 of 2008 leaving the Petitioner therein with liberty to prosecute Criminal Appeal No.211 of 2011, in which the order impugned dated 27.01.2012 has been issued. This is a true effect of the order dated 21.07.2011 in Writ Petition (Cr.) 5946 of 2008. This means that the appeal filed by the writ petitioner invoking Section 6C of the Essential Commodities Act, 1955 had to be considered independent of earlier order dated 30.08.2008 in Criminal Revision No.179 of 2007. However, it would be open to the Court below to decide on the maintainability of the Criminal Appeal as well. To pave way for this and for reconsideration of the said Criminal Appeal No.211 of 2011, the order impugned in this writ petition on 27.01.2012 is quashed. It is also clarified that whether an appeal lies under Section 6C of the Essential Commodities Act, 1955 and whether such an appeal lies to the Sessions Court are matters that would be open for the Sessions Court to consider in accordance with law. The Appellant is directed to mark his appearance before the Court below on 16.01.2018.
4. The writ petition is ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice