

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 584 of 2012****Order Reserved on 21.08.2017****Order Delivered on 31.08.2017**

Anirudha Jaiswal S/o Shri Balram Jaiswal Aged About 38 Years, Proprietor,
Maa Gayatri Rice Mill, R/o Beltara, Police Station House Ratanpur, Tahsil &
District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

State Of Chhattisgarh Through Collector Bilaspur District Bilaspur,
Chhattisgarh.

---- Respondent

For the Petitioner : Shri Ashok Verma, Advocate.
For the Respondent /State : Shri Anil S. Pandey, Government
Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**CAV ORDER**

1. Heard.
2. This petition has been brought under Section 482 of the Code of Criminal Procedure challenging the order of confiscation of seized paddy passed by the Collector, Bilaspur in Case No. Khadya Pra. Kra. 16/2008-2009 which was upheld in Criminal Appeal No. 57 of 2012 passed by the Third Additional Sessions Judge, Bilaspur dated 23.3.2012.
3. Learned counsel for the petitioner submits that the petitioner is the Proprietor of Maa Gayatri Rice Mill. On 30.1.2009 at about 9:30 pm, Food Inspector A.K. Sawanni alongwith others inspected the rice mill of the petitioner, in absence of the petitioner and found 756 bags of paddy, in total,

302.40 quintals stocked. Brother of petitioner - Anit Jaiswal could not produce any document as he was not in possession of those documents. The Collector, Bilaspur issued a show-cause notice dated 26.2.2009 to the petitioner vide Annexure – A/3 to which the petitioner replied by submitting the documents etc. to show the legality of the possession of the paddy. After recording the statement of the Food Inspector, the Collector passed an order dated 22.11.2011 giving a finding that the petitioner has violated Rule 12 of the Chhattisgarh Chawal Upatti (Udgrahan) Adesh, 2007 and the seized paddy was confiscated under Section 6(A) of the Essential Commodities Act, 1955. The said order was challenged before the Sessions Court in Criminal Appeal No. 57 of 2012 which was decided on 23.3.2012 and the appeal of the petitioner was dismissed. Hence, this petition.

4. Learned counsel for the petitioner submits that the order passed by the Collector and the Sessions Court below are erroneous as no rule or any order was violated in this case. Principles of natural justice was not followed by the Collector, Bilaspur and no proper opportunity was given to the petitioner to defend his case under Rule 12 of the Chhattisgarh Chawal Upatti (Udgrahan) Adesh, 2007, which relates to maintenance of record and its violation cannot be made a ground for confiscation, and as such, it is prayed that the impugned orders be quashed and the relief be granted in favour of the petitioner.

5. Learned State counsel has opposed the submissions made on behalf of the petitioner and submits that the petitioner has failed to account for the lawful possession of 756 bags of paddy in the Rice Mill under his ownership, which is clear violation of the rule mentioned above and further the petitioner

failed to make any submission or produce any document with respect to the paddy seized from the Rice Mill, hence, the orders passed by the Collector and the Appellate Court do not suffer from any infirmity.

5. Perused the record.

6. As per the documents on record, there was a complaint against the petitioner that he was purchasing paddy from various sources and selling the same to various Sewa Sahakari Samitis and taking undue benefit of the government policy meant for farmers. On enquiry being made by the Collector, the petitioner could not make any submission or produce any document to show that the paddy found in its possession was not in contravention to Rule 12 of the Chhattisgarh Chawal Upapti (Udgrahan) Adesh, 2007. Section 3 of the Essential Commodities Act is exhaustive, according to which the purchase and sale of essential commodity is regulated. If the purchase was made by the petitioner, according to the regulation, he could have made a submission and got the relief, but apparently he has failed in this aspect. Hence, no fault can be found with the order of the Collector, Bilaspur and the order of the Sessions Court. Hence, this petition has no substance.

7. Reference has been made to Chhattisgarh Chawal Upapti (Udgrahan) Adesh, 2007. Clause 3 provides that every miller shall sell raw rice to the purchase officer at levy price. Clause 4 provides that every dealer shall sell to the purchase officer at levy price. Clause 5 provides that every miller shall submit a quarterly return to the Collector. Clause 6 provides that every miller and dealer shall sell to the purchase officer levy rice according to Clause 5 in

quantity as given in the prescribed quantity. Clause 7 prescribes for restrictions on milling. Clause 8 provides for exemption to be given to a person or a class of persons. Clause 9 provides powers of Entry, Search and Seizure etc. Clause 10 provides for penalty. Clause 11 provides for confiscation of Rice or Paddy and Clause 12 provides only that every miller and dealer shall maintain records of paddy and rice in a format prescribed. Clause 11 of this order clearly states that without any prejudice to anything contained in Clause 10 thereof, in the event of any contravention of the provisions of this order, the Collector may confiscate entire stock of paddy or rice seized under Clause 9, from a miller, a dealer, or any other person. Mentioning of violation of Clause 12 in the order by itself cannot be regarded as fatal to the proceeding drawn against the petitioner, because it is made clear in Clause 11 that if contravention of any of the provision of this order, the Collector may confiscate entire stock of paddy or rice seized under Clause 9 from a miller, a dealer or any other person which includes the provision under Clause 12, that the petitioner could not account that the stock found in his presence was not as a result of contravention of any of the Clause of this order.

8. Reliance has been placed by the petitioner on the judgments of Supreme Court in **K.L. Subbayya vs. State of Karnataka** reported in **AIR 1979 SC 711**, **Jethalal Nemchand & Sons and Others vs. State of Madhya Pradesh** reported in **1984 M.P.L.J. pg 204**, **M/s Satish and Company vs. State of Kerala and Anr.** reported in **1983 Crimes 424** (Kerala High Court), **M/s Munilal Bhagwat Sharan and Others vs. The Chief Commercial Superintendent, Eastern Railway and Others** reported in **AIR 1972 CALCUTTA 405** (Calcutta High Court), **Dilip Kumar vs. State**

of Andhra Pradesh reported in 2004 CRI.L.J. 2202, N. Nagendra Rao and Company vs. State of Andhra Pradesh reported in AIR 1994 SC 263 (Andhra Pradesh High Court), Kiran Oil Industries vs. District Collector reported in AIR 1997 GUJARAT 153 (Gujarat High Court) and Babulal Sao vs. State of Bihar reported in 1977 CRI.L.J. (NOTES) 52 (Patna High Court). The ratio laid down in these judgments is not applicable to the facts and circumstances of this case.

9. In the result, this petition is dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge