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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.6085 of 2017

Date of Decision: 18.04.2018

Bharat Bhushan

.....Petitioners

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Bipan Ghai, Sr. Advocate with
Mr. Arjun Kundra, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJ MOHAN SINGH, J. (Oral)

CRM No.13315 of 2018

For the reasons mentioned in the application, the same
is allowed.

Accompanying documents are taken on record subject
to all just exceptions.

Main case

[1]. Prayer is for quashing of FIR No.308 dated 18.09.2009
registered under Section 7 of the Essential Commodities Act,
1955 at Police Station Jodhewal, Ludhiana, order dated
12.10.2016 passed by Judicial Magistrate First Class, Ludhiana,

order dated 10.01.2017 passed by Additional Sessions Judge, Ludhiana and order dated 30.01.2017 passed by the Judicial Magistrate First Class, Ludhiana along with all subsequent proceedings undertaken in pursuance thereof.

[2]. On 22.02.2017, notice of motion was issued on the basis of contention raised by learned counsel for the petitioner that sugar being an essential commodity has to be regulated by the Central Government as per Section 3 of the Essential Commodities Act. The requirement was dispensed with, in the context of licensing control on specified essential commodity including sugar vide Central Government's Notification dated 15.02.2002. The licensing order was also issued in the context of "Removal of Licensing Requirements, Stock Limits and Movements Restrictions on Specified Food Stuff Order 2002". The Central Government issued notification on 16.07.2009 for six months, restricting the stock upto 2000 quintals of sugar by the recognized dealer. There was no corresponding notification issued by the State Government pursuant to the aforesaid notification. Raid was conducted on 17.09.2009 by an unauthorized person who got the authorization from the Deputy Commissioner on 25.09.2009. Reference was made to the pendency of CRM-M No.9667 of 2010. Thereafter, the case was adjourned on the request of learned State Counsel and it was

finally adjourned for arguments with reference to such notification which was required to be brought on record by the learned State Counsel i.e. corresponding notification issued by the State Government.

[3]. Evidently, no such notification has been brought on record, authorizing the person who conducted the raid as per authority given in the notification (if any).

[4]. On 14.12.2017, following order was passed by the Co-ordinate Bench:-

“Learned counsel for the petitioner contended that the present FIR is liable to be quashed as the same is non compliance of clause 15 of notification dated 16.07.2009.

Learned counsel for the petitioner further contended that the State Government had not issued any notification as required on the date of raid and in similar cases FIR have already been quashed by the Court.

Learned State counsel seeks time to place on file copy of notification issued in compliance of said notification.

Adjourned to 10.01.2018.”

Thereafter, learned State Counsel sought last opportunity to address arguments with reference to corresponding notification of the State Government, if any. The case was adjourned and ultimately, it was listed for today. Today, also learned State Counsel could not produce any such notification and fairly conceded that there is no such notification.

[5]. Learned State Counsel has reiterated the stand that the authorization was given only by way of letter dated 25.09.2009 issued by the Deputy Commissioner.

[6]. The controversy has already been decided by the Co-ordinate Bench in CRM-M No.9667 of 2010 on 20.04.2017.

[7]. Learned State Counsel concedes to the aforesaid fact that the controversy is squarely covered by the decision dated 20.04.2017 rendered in CRM-M No.9667 of 2010.

[8]. In view of conceded position, it can be held that the action of the respondent/State in applying notification dated 16.07.2009 of the Central Government without issuing its corresponding notification is not legally sustainable. Co-ordinate bench has also held that non-adherence of the provisions of the Act and Order of 1966 is wholly erroneous and gross abuse of process of law.

[9]. Resultantly, impugned FIR, impugned orders and entire subsequent proceedings undertaken in pursuance thereof are hereby quashed being not sustainable in the eyes of law. Normal consequences to follow in accordance with law.

April 18, 2018

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**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No