

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 379 of 2007**

- State Of Chhattisgarh, Through District Magistrate, District-Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

1. Bhuvan Kashyap S/o Sahoran Kashyap, aged about 45 years, R/o Village Kamrid, P.S. And Tehsil Champa, District-Janjgir-Champa. Chhattisgarh.
2. Goukaran S/o Sahoran Kashyap, aged about 35 years, R/o Village Kamrid, P.S. And Tehsil Champa, District-Janjgir-Champa. Chhattisgarh.

---- Respondents

For Applicant/State	:	Mr. Akhtar Hussain, PL.
For Respondents	:	Mr. Shourabh Sharma, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****05/09/2019**

1. The present revision has been filed by the applicant/State against the order dated 05.10.2005 in Criminal Appeal No. 33/2001 passed by the learned Sessions Judge, Bilaspur, C.G. whereby the learned appellate Court has allowed the appeal of the respondents and set aside the conviction order passed by learned Collector and Licensing Officer, Janjgir-Champa in Food Case No. 15/1999 order dated 23.01.2001.
2. Brief facts of the case are that, the respondents were carrying 85 bags of paddy in their Metador Model No. 709 in the intervening night of 19th - 20th January, 1999 for selling it at Bilaspur. The said vehicle was being driven by driver Raghuram and Ramsagar was cleaner (Khalasi) of the vehicle. The said vehicle was intercepted on the way near village Khutighat and the paddy along with the vehicle was seized by the Food Inspector and his team members. Thereafter, seizure memo and *Panchnama* was prepared and seized paddy and the vehicle was given on *supurdnama*. The investigation report was

placed before the Collector and Licensing Officer, Janjgir-Champa by the Food Inspector, in which recommendations to take action under the provisions of Section 5-A of Essential Commodities Act, 1955 against Raghuram (Driver) was made.

3. The learned Collector and Licensing Officer, Janjgir-Champa issued notice to the driver Raghuram and on 22.03.1999 the learned Collector directed that the seized paddy and the vehicle Metador 709 be confiscated in favour of the State. Thereafter, the said order was appealed by the respondents before learned Sessions Judge and the learned Sessions Judge has set aside the order dated 22.03.1999 and remanded the matter with direction that after examination of the witnesses and giving opportunity of cross-examination to respondents herein and giving opportunity to submit evidence in his defence, the matter may be decided afresh in accordance with law.
4. The matter was remanded back before Collector and Licensing Officer, Janjgir-Champa. The respondents filed reply and documents before Collector and Licensing Officer, Janjgir-Champa. Thereafter, the learned Collector and Licensing Officer after giving full opportunity to both the parties passed an order dated 23.01.2001 and directed that the offending vehicle Metador model No. 709 and paddy be confiscated in favour of the State. The respondent filed an appeal against this order before Sessions Court and the learned Sessions Judge by order dated 05.10.2005 allowed their appeal and order of confiscation was set aside. Hence, this revision has been filed by the State.
5. Learned counsel for the State submits that the impugned order passed by the appellate Court is bad in law and also in facts the learned appellate Court did not appreciate the documents and evidence of Food Inspector and erroneously disbelieved his testimony giving benefit to the respondents. He further submits that when the vehicle was intercepted and inspected, no documents in respect of the transporting paddy or in respect of the registration of the vehicle was produced by the driver of the said vehicle, this prima facie and after due investigation it was found proved that said paddy was being transported illegally in order to sale it at the higher rate. He next submits that the learned appellate Court ought to have appreciated that the respondents have committed flagrant violation

of the provisions of the Act, 1977. Learned appellate Court has exercised the jurisdiction, which is not vested in it and hence the order passed by the learned appellate Court is beyond jurisdiction and is liable to be set aside.

6. Learned counsel for the respondents supported the impugned order.
7. Heard the learned counsels for both the parties and perused the material available on record.
8. Before competent authority respondents stated in their statement that there is about 25-30 acres of irrigated land in the village Kamreed in the name of the respondents and his father, from which 700 bags of paddy was produced. Applicant No. 2 had financed the Metador from Bilaspur for his own work, which he had to pay, so, they were also taken the paddy for sale in Bilaspur. They also said that they are not trading of paddy they were being taken to sell the crop obtained from their own farming. It is also mentioned in the para-7 of the order of the Collector that Respondents are also produced copy of land documents as B-1 in which it is clear that they have 27 acres of land in the name of various owners.
9. Learned appellate Court in its order dated 05.10.2005 from para 8-11 are appreciated the evidence of Food Inspector and the respondents. Food Inspector admitted in his cross-examination that he was not inspected in Village Kamreed and was not given any notice to the respondents and he wrote in his report only on the basis of his presumption that respondents are doing illegal business of Paddy trading and were transported illegally. After proper appreciation of documents and evidence learned appellate Court set aside the order of the Collector and Licensing Officer.
10. This Court found no illegality or irregularities in the order passed by the Court below. Thus, there is no merit in the revision and therefore, it is dismissed with affirmation of the order passed by the Court below.

**Sd/-
(Rajani Dubey)
JUDGE**