

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No. 384 of 2019**

Basanti Banjare W/o Shri Hemram Banjare Aged About 36 Years Registered Owner Of The Vehicle, R/o Village Bhathagaon, Tahsil And P/s Kharsia, And District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Collector, Raigarh, Tahsil And District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
2. The Tahsildar Raigarh, Tahsil And District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
3. The District Food Officer Collectorate Raigarh, Tahsil And District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Respondents

For the Petitioner : Shri Abhishek Saraf, Advocate.
 For the Respondents/State : Shri Avinash K.Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.07.2019**

Heard.

1. This petition has been brought under Article 226 of the Constitution of India praying for issuance of appropriate writ.
2. It is submitted by counsel for the petitioner that the vehicle under the ownership of the petitioner bearing registration No. C.G. 13UE/ 3727 was seized by the respondents/ authorities under the provisions of Section 3 read with Section 7 of the Essential Commodities Act on 15.1.2019. In this matter, the Collector of the District has authority to consider and decide the

application for interim custody. The petitioner had filed an application praying for interim custody of the seized vehicle. This application has been disposed off by order dated 28.5.2019 vide Annexure-A/1 by which the application was rejected without mentioning any reason and the order is not at all a speaking order. Hence, it is prayed that the petition be allowed and the directions be issued.

3. Learned State counsel opposes the petition.

4. Heard counsel for both the parties and perused the documents.

5. After perusing the impugned order, it appears that the order has been passed just in two lines mentioning that a request for interim custody has been made in the first line and thereafter, the application for interim custody has been rejected is mentioned in the second line.

6. In no way, it can be said that it is a reasoned order. Section 6E of the Essential Commodities Act puts a bar on jurisdiction of the judicial authority to pass any order with respect to possession, delivery, interim custody etc of the property seized in connection with the offence under Section 3 of the Essential Commodities Act. The provision is silent with respect to the powers of the Collector, who is the authority to make the confiscation. Therefore, it is clear that the Collector can consider and decide the application for grant of interim custody of any property seized under the provisions of the Essential Commodities Act.

7. It is clear that respondent No.1 – The Collector has not exercised the authority in accordance with law and has not passed a speaking order which is required in each case. Therefore, the petition is disposed off with a direction at the motion stage.

'Respondent No.1 is directed to reconsider the application filed by the petitioner for grant of interim custody of the vehicle seized in this case and pass a speaking order in that respect.'

8. Accordingly, the petition is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge