THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CRIMINAL REVISION CASE No. 579 of 2006

O R D E R:

This Revision is directed against the judgment dated 28.10.1999 in Criminal Appeal No. 220 of 1998 (ECAC No. 19 of 1998) on the file of the Sessions Judge at Warangal.

The allegation against the respondents is that they are the owners of Krishna Re-Rolling Mills and Iron and Steel and Coal, when the lorry bearing No. APO 4502 was unloading coal in the coal yard of the respondents, the Deputy Superintendent of Police, Vigilance Cell surprised the premises on 18.03.1998 at about 02.00 P.M., but the respondents could not give satisfactory explanation for the same. Therefore, the total coal weighing 25,660 Kgs. was seized and further enquiry revealed that the coal was transported and unloaded illegally in the premises of the respondents. They were therefore, issued notices invoking Section 6-A of the Essential Commodities At, 1955 (for short, 'the Act') at the instance of the Deputy Superintendent of Police, Vigilance and Enforcement Department, Warangal. The Joint Collector *vide* order dated 29.10.1998 directed confiscation of the entire value of the coal and lorry in favour of the State. Thereagainst, the Appeal was filed.

One of the principal contentions urged before the Primary Authority – Joint Collector as well as the Appellate Authority is that coal is not an 'essential commodity' under Section 6(c). It was specifically contended that Control Order, 1945 is not in vogue and it was not issued under the 1955 Act. It was asserted that coal was treated as a 'controlled commodity' only between 01.01.1989 and 31.03.1996 and thereafter, there is no Control Order issued under the 1955 Act and thus, the provisions of the said Act have no application as the date of the alleged offence was 18.03.1988. Further, it was also contended before the Appellate Authority that no witnesses were examined and no opportunity was given to the respondents.

The Appellate Court, after referring to various judgments, found that the Joint Collector did not follow either the Criminal Procedure Code or any provisions of the Indian Evidence Act, hence, came to the conclusion that there was violation of the provisions of the 1955 Act in conducting the enquiry and thus, remanded the matter for *de novo* enquiry by setting aside the order of the Joint Collector.

Having regard to the fact that the matter was remanded and there being no order of the Joint Collector, though *de novo* enquiry was ordered, for violation of the procedure prescribed, the order under Revision does not warrant any interference, as it is for the primary authority to examine the specific contention raised by the respondents whether coal control order is in existence, whether coal is a 'controlled commodity' falling within the 1955 Act and whether there is any violation of the said provision as the same goes to root of the matter. It may be noted that the provisions of the 1955 Act would get attracted only when there is violation of the Control Order but not otherwise.

In those circumstances, the Order of the learned Sessions Judge does not call for any interference. Accordingly, the Criminal Revision Case is dismissed.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

4th February 2020

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