

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 569 of 2021

Narbada Bai Chandrakar, W/o Late Kislal Chandrakar, Aged About 42 Years, R/o Village- Harnadadar, Block Bagbahara, District- Mahasamund (C.G.)

--- Petitioner

Versus

1. State of Chhattisgarh, Through: S.H.O. Police Station- Bagbahara, District- Mahasamund (C.G.)
2. The District Magistrate (Collector) Mahasamund, District- Mahasamund (C.G.)

--- Respondents

For Petitioner : Mr. Sanjay Agrawal, Advocate.

For State/respondents : Mr. Rakesh Sahu, Dy. Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

06/09/2021

1. The petitioner has filed this petition under Article 226 of the Constitution of India against the order dated 25.06.2018 (Annexure P/1) passed by District Magistrate (Collector), Mahasamund in Case No. 02/2018 (State of Chhattisgarh Vs. Hemant Nayak) by which learned District Magistrate has passed the order to confiscate the seized vehicle (Tractor) bearing registration No. CG-06 GD-8601 along with trolley and the order dated 23.03.2021 (Annexure P/2) passed by the learned Judicial Magistrate First Class, Mahasamund, by which application filed by the petitioner for supurdnama of the seized vehicle, has been rejected.
2. After hearing learned counsel for the petitioner for some time, it is reflected from the records that the Collector, Mahasamund, who is confiscating authority under the Chhattisgarh Excise Act, 1915 (for short "the Act, 1915") has passed order on 25.06.2018

directing confiscation of the seized vehicle, thereafter, the petitioner was chosen to file case before the Judicial Magistrate First Class, Mahasamund, who has rejected the said application, thereafter, the petitioner has filed application for releasing the vehicle along with trolley, but the same application has also been rejected.

3. From records, it is also evident that the petitioner has not exhausted remedy of filing application provided under Section 47-B of the Act, 1915, which is extracted below:-

“47-B. Appeal against the order of confiscation. -

(1) Any person aggrieved by an order of confiscation passed under sub-section (2) of Section 47-A may, within thirty days of such order prefer an appeal to the Collector concerned or to any other officer authorised by the State Government by notification (hereinafter referred to as the Appellate Authority). Such appeal memorandum shall be accompanied by a certified copy of the order appealed against.

(2) The Appellate Authority on presentation of such memorandum of appeal, issue a notice to the appellant and to any other person who is likely to be adversely affected by the order that may be passed in appeal.

(3) The Appellate Authority after hearing the parties to the appeal, shall pass an order confirming, reversing or modifying the order of confiscation appealed against:

Provided that he may pass such order of interim nature for custody, disposal etc. of the confiscated articles during the pendency of appeal, as may appear to him just or proper in the circumstances of the case but he shall have no power to stay the order of confiscation appealed against during the pendency of appeal.”

4. From bare perusal of Section 47-B of the Act, 1915, it is quite clear that the petitioner should have file appeal before the Collector concerned within 30 days. When this specific query is posed to learned counsel for the petitioner, he would submit that due to death of her husband on 01.12.2018, she could not prosecute the proceeding.
5. From perusal of the above facts, it is clear that the petitioner has

not exhausted remedy of filing appeal before the Collector, Mahasamund, therefore, the present writ petition is disposed of with liberty granted in favour of the petitioner for filing appeal before the Collector within 30 days from the date of receipt of copy of this order.

6. The appellate authority is directed to consider the application of the petitioner on its own merits without taking the ground of delay in filing the appeal.
7. With the aforesaid observations and direction, the present writ petition is disposed of.
8. Registry is directed to return the certified copy that has been filed in this petition, to the counsel for the petitioner, after retaining photocopy of the same.

Sd/-
(Narendra Kumar Vyas)
Judge

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 999 of 2021

Narbada Bai Chandrakar, W/o Late Kislal Chandrakar, Aged About 42 Years, R/o Village- Harnadadar, Block Bagbahara, District- Mahasamund (C.G.)

--- Petitioner

Versus

1. State of Chhattisgarh, Through: S.H.O. Police Station- Bagbahara, District- Mahasamund (C.G.)
2. The District Magistrate (Collector) Mahasamund, District- Mahasamund (C.G.)

--- Respondents

For Petitioner	:	Mr. Sanjay Agrawal, Advocate.
For State/respondents	:	Mr. Gurudev I. Sharan, Govt. Adv. and Mr. Rakesh Sahu, Dy. Govt. Advocate.

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

22/09/2021

1. Heard.
2. The default as pointed out by the Registry is overruled.
3. This petition has been filed for correction/ modification of order dated 06.09.2021 passed by this Court in WPCR No. 569 of 2021 (Narbada Bai Chandrakar Vs. State of Chhattisgarh & another).
4. Perused the order dated 06.09.2021 passed by this Court in WPCR No. 569 of 2021 wherein it is found that in paragraph 4 & 5 of the order, '**Collector**' has wrongly been typed in place of '**Excise Commissioner**'.
5. Accordingly, it is directed that in the order dated 06.09.2021 passed by this Court in WPCR No. 569 of 2021, in paragraph 4 & 5, word '**Collector**' be read as '**Excise Commissioner**'.
6. 30 days time for filing appeal before the Excise Commissioner

will be counted from the date of receipt of copy of this order passed today.

7. Rest of the order dated 06.09.2021 passed by this Court in WPCR No. 569 of 2021 shall remain intact.
8. In view of the above, the instant petition stands disposed of.
9. A copy of this order be kept in the order dated 06.09.2021 passed in WPCR No. 569 of 2021.

Sd/-
(Narendra Kumar Vyas)
Judge

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