

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 177 OF 2022

Sayyad Shahbaz Ali s/o Mushtaq Ali Age
 30 year, Occu. Transport, R/o Plot No.
 251, C.A. Road, Near Meer Faiz Masjid,
 Behind Seva Sadan Building, Khadan,
 Nagpur.

... **PETITIONER**

VERSUS

1. State of Maharashtra,
 through its Police Station Officer,
 Jaripatka, Nagpur.
2. The Collector, Nagpur City,
 Collector Office, Civil Lines,
 Nagpur.

... **RESPONDENTS**

Shri Vishwadeep N. Mate, Advocate for the petitioner.
 Shri H.D. Dubey, A.P.P. for respondents – State.

CORAM : **VINAY JOSHI, J.**

DATED. : **17.06.2022.**

ORAL JUDGMENT :

RULE. Rule is made returnable forthwith.

2. Heard finally by consent of both the parties.

3. The challenge in this petition is to the order dated 16.12.2021 passed by the District Magistrate, Nagpur in terms of Section 6-A of the Essential Commodities Act, 1955 (for short 'the EC Act'). Though the District Magistrate has ordered for release of vehicle, however, imposed conditions of furnishing bank guarantee equating the amount of vehicle. The said order is under challenge in this petition.

4. Initially, the petitioner has challenged the same order before the Court of Sessions by invoking revisional jurisdiction of Sessions Court. The learned Sessions Judge has disposed of the revision on account of non-maintainability. The Revisional Court noted that the impugned order is appealable under Section 6-C of the EC Act and therefore, the revision being not maintainable, it is came to be disposed of.

5. There is no dispute that the impugned order dated 16.12.2021 was passed by the District Magistrate in terms of Section 6-A of the EC Act. The statute itself has provided a remedy of appeal under Section 6-C which ought to have resorted for the redressal. Apparently, legality and sustainability of the impugned order has not been tested in the appeal provided by the statute. It appears that

instead of preferring an appeal, the remedy of revision has been resorted perhaps under misconception. In the circumstance, it is appropriate to allow the petitioner to resorts the statutory remedy of appeal.

6. In view of the above, the petitioner is permitted to file statutory appeal under Section 6-C of the EC Act before the appropriate authority.

7. Having regard to the fact that earlier revision was filed, the Appellate authority shall decide the appeal on its own merits without considering the point of limitation, provided the appeal shall be filed within 15 days from today.

8. The Criminal Writ Petition stands disposed of in above terms.

(VINAY JOSHI, J.)

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