

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

CRIMINAL WRIT PETITION NO. 619 OF 2022

Nafees Khan Aziz Khan, aged about 39
 years, occ. Business, R/o Mangrulpir,
 Tah. Mangrulpir, Distt. Washim. vein

... PETITIONER

VERSUS

1. The State of Maharashtra, through
 Police Station Officer, Police Station
 Talegaon Dashashar, Distt. Amravati.
2. Collector, Amravati, Tah. & Distt.
 Amravati.

... RESPONDENTS

Shri Sk. S. Jagirdar, Advocate for the petitioner.
 Shri S.M. Ukey, A.P.P. for respondent nos. 1 and 2.

CORAM : **VINAY JOSHI, J.**
DATED. : **27.09.2022.**

ORAL JUDGMENT :

RULE. Rule made returnable forthwith. Heard finally by
 consent of learned Counsel appearing for the parties.

2. The petitioner's goods have been seized by the Police
 Officer. The Collector, Amravati has passed the order dated 28.01.2022

by which directed to sell seized goods i.e. the rice bags and to credit the sale proceed in the Government account. The petitioner has challenged the said order by way of appeal however, the appeal was disposed of by stating that the order of the Collector, is an interim nature.

3. Learned Counsel appearing for the petitioner would submit that since after seizure of goods i.e. rice bags, they were directed to be sold, which amounts to confiscation. Moreover, he has pointed out that by impugned order the Collector has stated that the order has been passed under Section 6 and 6-A of the Essential Commodities Act, 1955 (for short 'the Act'). The Collector is empowered to confiscate the goods, if there has been a contravention of the order passed under the Act. The impugned order of the Collector discloses that after application of mind, seized goods are directed to be sold and thus, the order very much assumes the character of final nature in terms of Section 6-A of the Act.

4. I do not find any reason to term said order as of interim nature because, the goods are directed to be disposed by sell which assumes a character of final nature. The learned Sessions Judge has not tested the order on merits however, declined to consider the appeal by stating that it is not maintainable. Since the impugned order passed by the Collector is in the nature of confiscation under Section 6-A of the

Act the Appellate Court has to decide the appeal on merits.

5. In view of above, the petition is allowed. The impugned order dated 10.06.2022 passed by the Sessions Court in Criminal Appeal No. 33 of 2021 is hereby quashed and set aside. The Criminal Appeal is restored at its original stage with a direction to decide it, in accordance with law.

6. The petition stands disposed of in the above terms. No order as to costs.

(VINAY JOSHI, J.)

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