

Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7834 OF 2023

Santosh Jawaharlal Shah	...Petitioners
<i>Versus</i>	
The State of Maharashtra & Ors	...Respondents

Mr Rahul S Kate, *for the Petitioner.*
Ms SS Bhende, AGP, *for the Respondent-State.*

CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 28th June 2023

PC:-

1. Heard

2. The Petitioner seeks an order of quashing an order dated 31st March 2023 issued by the District Supply Officer, Pune and directing that authority to release to the Petitioner the rice that was confiscated. It is not in doubt that on 23rd November 2022 at about 1:15 pm one Kishor Eknath Sawant was found in a truck carrying rice said to belong to the Petitioner of a quantity of 17790 kgs. This was in over 300 nylon bags. The rice was all of ration quality. An FIR bearing C.R. No. 408 of 2022 was registered with Vadgaon Nimbalkar Police Station, District Pune. The goods were seized. The Tahsildar in Baramati submitted a report on 13th December 2022 to the Collector stating that the seized goods had been

unloaded at the Government Grain go down, Malegaon. A request was to dispose of the grain so that it would not deteriorate. A notice came to be issued under Section 6B of the Essential Commodities Act, 1955 to allow parties to enter their responses. That hearing was on 31st March 2023. According to the Petitioner, he had purchased the grain from wholesalers in different states in the open market. Bags were filled with the food grains and then packed. The food grain was meant to be sold as chicken feed to the poultry industry. The Petitioner denied that the grains were of a rationing shop. There was a report from the Tahsildar, Baramati as well. Thereafter, and having heard the parties, the Collector passed the impugned order directing the auction of the seized rice.

3. The attempt now is to stall the auction which is in fact scheduled for today. The better part of a whole year has gone past from November 2022 till the end of June 2023. The Petitioner was admittedly not able to produce bills at the time of the seizure. Some bills came to be produced only at a later stage.

4. In these circumstances, we decline to exercise our discretion under Article 226 of the Constitution of India. No prima facie case is made out. The auction will proceed.

5. The Writ Petition is rejected.

(Neela Gokhale, J)

(G. S. Patel, J)