

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2048 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SHRI KRISHNA ENTERPRISE

Versus

ASSISTANT COLLECTOR

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Appearance:

MR YS LAKHANI for Petitioner

MR BY MANKAD AGP for Respondent No. 1, 2

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 30/06/97

ORAL JUDGEMENT

Rule. Mr BY Mankad learned AGP waives service for the respondents. At the request of the learned advocates, this petition is heard today finally.

The petitioner has challenged the order of confiscation passed by the Asstt. Collector Rajkot and confirmed in Revision by the Deputy Secretary, Food and Civil Supplies Department, State of Gujarat, dated

8.6.1996 confiscating 40 tins of edible oil of 960 kg. and 40 tins of Raida oil of 600 kg. The price thereto is Rs 57,720/. As can be seen from the show-cause notice that on 13.10.1993 at the time of checking, the petitioner was found to have committed two irregularities, namely; that the petitioner has stored 33kg edible oil which was in excess then record of storing, and secondly; the petitioner stored 64 tins of edible oil and 40 tins of Raida oil, opposite to his regular shop and the place of storing has not been shown or added in the licence. The authorities have not found the allegation no. 1 as proved, however, after considering the explanation of the petitioner, they have found that allegation no. 2 is proved; and as stated above, they passed the impugned order.

Having heard the learned advocates at length, I am of the view that this being a petition under Art. 227 of the Constitution of India, it is not possible for this court to take a different view as far as the finding recorded by the authorities with respect to the irregularities committed by the petitioner as far as the allegation no. 2 is concerned. However, considering the facts and circumstances of the case, and more particularly there is no antecedent of the petitioner of having committed the similar offence in the past and the misconduct alleged is not a serious one which would warrant confiscation of the entire goods. In my view, the ends of justice shall be met, instead of confiscating the entire goods, if 50% of the goods in question is ordered to be confiscated.

In the result, this petition is partly allowed. The Order at Annexures- A & B passed by the respondents is modified to the extent that the respondents shall confiscate 50% of the goods in question, and accordingly 50% of the amount of Rs 57.720/ only. Rule is made absolute to the aforesaid extent only with no order as to costs.

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