"C.R."

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SUSHRUT ARVIND DHARMADHIKARI

&

THE HONOURABLE MR. JUSTICE P. V. BALAKRISHNAN

THURSDAY, THE 5TH DAY OF FEBRUARY 2026 / 16TH MAGHA, 1947

WA NO. 1819 OF 2025

AGAINST THE JUDGMENT DATED 08.04.2025 IN WP(C) NO.31340 OF 2019 OF HIGH COURT OF KERALA

APPELLANT/S:

1 STATE OF KERALA
REPRESENTED BY THE SECRETARY, FOOD AND CIVIL SUPPLIES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM., PIN - 695001

2 THE DISTRICT COLLECTOR
COLLECTORATE, KOTTAYAM., PIN - 686002

3 DISTRICT SUPPLY OFFICER, DISTRICT SUPPLY OFFICE, CIVIL STATION, COLLECTORATE PO, KOTTAYAM., PIN - 686002

4 TALUK SUPPLY OFFICER
TALUK SUPPLY OFFICE, REVENUE TOWER, CHANGANACHERRY., PIN - 686101

BY SPL. GOVERNMENT PLEADER SRI RENJITH S

RESPONDENT/S:

NIRADEEPAM ROLLER FLOUR MILL
THURUTHY PO, CHANGANACHERRY, KOTTAYAM DISTRICT. REP. BY ITS MANAGING

PARTNER P.F. SHAJI., PIN - 686535

BY ADVS.
SRI.SANIL JOSE
SRI.BONNY BENNY
SRI.P.G. SUDHEESH
SRI.K.P. ANTONY BINU
SHRI.AMALJITH

THIS WRIT APPEAL HAVING RESERVED ON 29.01.2026, THE COURT ON 05.02.2026 DELIVERED THE FOLLOWING:

JUDGMENT

"C.R."

Sushrut Arvind Dharmadhikari, J.

The present intra-court appeal under Section 5 of the Kerala High Court Act, 1958 assails the judgment dated 08.04.2025 passed in W.P.(C) No. 31340 of 2019, whereby the writ petition filed by the respondent was allowed.

2. The appellants herein were respondent Nos. 1 to 4 in the writ petition, while the respondent herein was the petitioner therein.

Facts:

3. The brief facts of the case are that the respondent is the owner of a roller flour mill engaged in processing wheat products. On 20.04.2007, a raid was conducted by the Taluk Supply Officer and the Rationing Inspectors at the instance of the District Collector/second appellant, which led to the seizure of 2,34,610 kgs of wheat from the firm's godown, alleging that the said wheat was exclusively meant for

distribution through the Public Distribution System and that the respondent was in possession of the same for illegal sale.

3.1 Pursuant to the confiscation, prosecution was launched against the managing partner of the respondent, alleging offences under Section 3(1) of the Essential Commodities Act, 1955 and Clause 5A of the Kerala Rationing Order, 1966. Crime No. 247/2007 was registered against the managing partner and a charge sheet was filed. C.C. No. 656/2007 was tried before the Judicial First Class Magistrate Court–I, Changanacherry, which resulted in the acquittal of the firm and the managing partner vide judgment dated 13.03.2015.

4. Being aggrieved, the respondent herein filed the writ petition praying for the following reliefs:

> "(i) call for records leading to passing of Ext.P7 order and quash the same by the issuance of a writ of certiorari;
> (ii) issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the 2nd respondent to arrive at the selling price to the Government for the wheat seized from the petitioner firm as Rs.12/kg of wheat as envisaged in Section 6C(2) of the Essential

Commodities Act, 1955 which is the price paid by the petitioner for procuring the same;

(iii) issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the 2nd respondent to grant reasonable interest for the price of wheat seized calculated from the day of seizure of the same;

(iv) issue a writ in the nature of mandamus or any other appropriate writ, order or direction, directing the 2nd respondent to refund the petitioner firm the amount sought for in Ext.P5 representation; and

(v) issue such other writ, order or direction as this Honourable Court deems fit and proper in the circumstances of the case."

4.1 The learned Single Judge allowed the writ petition on the following terms:

> "6. In the instant case, the relevant Section that governs is Section 6C (2), as there is no case that the commodity seized is of the nature mentioned in Section 6A (2). As Section 6C (2) applies, the petitioner is entitled to be paid the price thereof as if it had been sold to the government with reasonable interest calculated from the day of seizure, and such price shall be determined in the case of food grains, edible oilseeds or edible oils, in accordance with the provisions of sub- Section 3B of Section 3.
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> 7. Section 3B states that an amount equal to the procurement price of such foodgrains, edible oilseeds or edible oils, as the case may be, specified by the State Government, with the previous approval of the

Central Government having regard to-(a) the controlled price, if any, fixed under this section or by or under any other law for the time being in force for such grade or variety of foodgrains, edible oilseeds or edible oils; (b) the general crop prospects; and the other conditions mentioned in Section 3B is to be followed.

8. As Section 6C (2) applies, the stand of the respondent that the petitioner needs to be paid only the control price is wrong and against the statutory provisions mentioned above. Under such circumstances, Ext.P7 is quashed. There will be a direction to the 2nd respondent to calculate the procurement price in terms of Section 3B of Section 3, if not ascertained so far. The petitioner is also liable to be paid reasonable interest, going by the provisions of Section 6C(2), from the date of the seizure. Fresh orders shall be passed by the 2nd respondent within two months from the date of receipt of a copy of the judgment and in terms of the findings rendered above.

The impugned order is quashed, and the writ petition is allowed as above."

Appellant's submission:

5. The learned Special Government Pleader submitted that the learned Single Judge erred in holding that Section 6C(2) of the Essential Commodities Act, 1955 (for short, "the Act") was applicable to the facts of the case. It was further submitted that the learned Single Judge passed

the impugned judgment without considering the scope and relevance of Sections 6A(2) and 6A(3) of the Act. The confiscation order passed by the District Collector under Section 6A of the Act has not been set aside by any statutory appellate authority. Hence, the findings of the learned Single Judge are erroneous and liable to be set aside.

5.1 Further, the learned Special Government Pleader submitted that Section 6C(2) of the Act is not applicable in the facts and circumstances of the case, as the said provision contemplates modification of an order passed under Section 6A of the Act or the consequences of an acquittal in the prosecution instituted for contravention of an order in respect of which confiscation has been ordered under Section 6A. In the present case, the crime was registered against the respondent for an alleged offence under Section 3(1) of the Act. The respondent was accused and subsequently acquitted, not for any offence under Section 6A of the Act. Only in cases where the accused is acquitted in respect of the contravention leading to confiscation under

Section 6A can the benefit of Section 6C(2) of the Act be claimed.

5.2 Therefore, it was prayed that the benefit under Sections 6A(2) and 6A(3) of the Act be continued, instead of granting compensation under Section 6C(2) of the Act, and that the writ appeal be allowed.

Respondent's submission:

6. *Per contra*, the learned counsel for the respondent submitted that the respondent was acquitted in C.C. No. 656/2007 after an elaborate trial by the Judicial First Class Magistrate Court–I, Changanacherry, vide judgment dated 13.03.2015. Subsequent to the acquittal, the respondent submitted an application before the District Collector, Kottayam under Section 6C(2) of the Act seeking refund of an amount of ₹28,15,320/- along with interest at the rate of 12%. However, the District Collector sanctioned only a sum of ₹14,49,440/-.

6.1 Aggrieved thereby, the respondent preferred the writ petition, which came to be allowed by the learned Single Judge, quashing the order of the District Collector. It was contended that the learned

Single Judge rightly appreciated that, by virtue of Section 6C(2) of the Act, where in a prosecution instituted for the contravention of an order in respect of which confiscation has been made under Section 6A and the accused is acquitted, such person is entitled to be paid the price thereof as if the essential commodity had been sold to the Government, together with reasonable interest calculated from the date of seizure.

6.2 Hence, it was submitted that the respondent is entitled to refund of the amount with interest at the rate of 12%, and that there is no error apparent on the face of the record warranting interference with the impugned judgment. Thus the Writ Appeal deserves to be dismissed.

Discussion and Analysis:

7. Heard Sri. Renjith S., learned Special Government Pleader for the appellants, and Sri. Sanil Jose, learned counsel for the respondent, and perused the records.

Provisions of the Act:

8. ***Section 6A of the Act***:

“**6-A. Confiscation of essential commodity.**-

(1) Where any essential commodity is seized in pursuance of an order made under section 3 in relation thereto, a report of such seizure shall, without unreasonable delay, be made to the Collector of the district or the Presidency town in which such essential commodity is seized and whether or not a prosecution is instituted for the contravention of such order, the Collector may, if he thinks it expedient so to do, direct the essential commodity so seized to be produced for inspection before him, and if he is satisfied that there has been a contravention of the order may order confiscation of-

(a) the essential commodity so seized;

(b) any package, covering or receptacle in which such essential commodity is found; and

(c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity:

Provided that without prejudice to any action which may be taken under any other provision of this Act, no foodgrains or edible oilseeds in pursuance of an order made under section 3 in relation thereto from a producer shall, if the seized foodgrains or edible oilseeds have been produced by him, be confiscated under this section:

Provided further that in the case of any animal, vehicle, vessel or other conveyance used for the carriage of goods or passengers for hire, the owner of such animal, vehicle, vessel or other conveyance shall be given an option to pay, in lieu of its confiscation, a fine not exceeding the market price at the date of seizure of the essential commodity sought to be carried by such animal, vehicle, vessel or other conveyance.

(2) Where the Collector, on receiving a report of seizure or on, inspection of any essential commodity under sub-section (1), is of the opinion that the essential commodity is subject to speedy and natural decay or it is otherwise expedient in the public interest so to do, he may-

(i) order the same to be sold at the controlled price, if any, fixed for such essential commodity under this Act or under any other law for the time being in force; or

(ii) where no such price is fixed, order the same to be sold by public auction:

(3) Where any essential commodity is sold as aforesaid, the sale proceeds thereof, after deduction of the expenses of any such sale, or auction or other incidental expenses relating thereto, shall-

(a) where no order of confiscation is ultimately passed by the Collector,

(b) where an order passed on appeal under sub-section (1) of section 6-C so requires, or

(c) where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under this section, the person concerned is acquitted,

be paid to the owner or the person from whom it is seized.

8.1 ***Section 6C of the Act***:

"**6-C. Appeal** (1) Any person aggrieved by an order of confiscation under section 6-A may, within one month from the date of the communication to him of such order, appeal to any judicial authority appointed by the State Government concerned and the judicial authority] shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.

(2) Where an order under section 6-A is modified or annulled by such judicial authority, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under section 6-A, the person concerned is acquitted, and in either case it is not possible for any reason to return the essential commodity seized, such persons shall, except as provided by sub-section (3) of section 6-A, be paid the price therefor as if the essential commodity, had been sold to the Government with reasonable interest calculated from the day of the seizure of the essential commodity and such price shall be determined-

(i) in the case of foodgrains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (3-B) of section 3;

(ii) in the case of sugar, in accordance with the provisions of sub- section (3-C) of section 3; and

(iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3."

9. The learned Single Judge held that Section 6C(2) of the

Essential Commodities Act, 1955 governs the field and that the seized commodity did not fall within the category contemplated under Section 6A(2) of the Act. Consequently, the learned Single Judge applied Section 6C(2) and concluded that the respondent was entitled to repayment of the price of the seized commodity as if it had been sold to the Government, together with reasonable interest calculated from the date of seizure.

10. In the present case, a confiscation order dated 20.04.2007 was passed in respect of wheat seized from the respondent's godown on the allegation that the same was exclusively meant for distribution through the Public Distribution System and that the respondent had possessed it for illegal sale. Pursuant thereto, confiscation proceedings were initiated and prosecution was launched against the managing partner of the respondent for alleged offences under Section 3(1) of the Act and Clause 5A of the Kerala Rationing Control Order, 1966. A crime was registered, and the managing partner was charge-sheeted accordingly.

The trial before the Judicial First Class Magistrate Court–I, Changanacherry culminated in the acquittal of the managing partner as well as the firm *vide* judgment dated 13.03.2015.

10.1 On a perusal of the statutory provisions, we are of the view that Section 6C(2) of the Act is not applicable to the facts of the present case. Instead of claiming the price of the seized commodity under Section 6A(3)(c) of the Act, the respondent sought compensation under Section 6C(2) of the Act, which reads as follows:

> *"(2) Where an order under Section 6A is modified or annulled by such judicial authority, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6A, the person concerned is acquitted, and in either case it is not possible for any reason to return the essential commodity seized, such person shall, except as provided by sub-section (3) of Section 6A, be paid the price therefor as if the essential commodity had been sold to the Government, together with reasonable interest calculated from the date of seizure of the essential commodity.*
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> *........."*

11. The respondent contended that the wheat had been purchased from various suppliers and that, after reckoning all expenses

including transportation, the average purchase cost worked out to ₹12/- per kilogram. On that basis, the respondent claimed refund of a sum of ₹28,15,320/- (2,34,610 kg × ₹12) with interest at the rate of 12% from 26.03.2007.

11.1 However, as the confiscated food grains were perishable in nature, the District Collector sold them through Fair Price Shops and deposited the sale proceeds in the Revenue Deposit (RD) account. In such circumstances, the statutory requirements for invoking Section 6C(2) of the Act are not satisfied, since the crime against the respondent was registered under Section 3(1) of the Act read with Clause 5A of the Kerala Rationing Control Order, and the respondent was subsequently acquitted. The situation would have been different had the crime against the respondent been registered under Section 6A of the Act and the respondent thereafter acquitted. Therefore, the provisions of Section 6C(2) of the Act are not attracted in the present case.

12. As per the Rules, the cost of seized articles is required to be

calculated at the economic rate and credited to the Revenue Deposit, and no transportation charges are permissible. The District Collector has acted in compliance with the orders of this Court in W.A. No. 1177 of 2007 and has taken appropriate decisions at every stage of the proceedings. The District Collector sold the seized wheat through the Public Distribution System, by distributing it through Fair Price Shops to the needy and poor at the fair price fixed by the Government.

12.1 The learned Single Judge, while interpreting Sections 6A and 6C of the Act, concluded that the price of the confiscated commodity had been incorrectly calculated and held that the price ought to have been determined under Section 6C(2) of the Act, instead of Section 6A(3)(c), and that the amount should have been paid along with interest.

12.2 The entitlement under Section 6C(2) of the Act arises only in a situation where the person concerned is acquitted of an offence under Section 6A of the Act. In the present case, the respondent was neither proceeded against nor acquitted under Section 6A of the Act. The prosecution against the respondent was under Section 3(1) of the Act read with Clause 5A of the Kerala Rationing Control Order, and the respondent was acquitted of the said charge.

12.3 In such circumstances, the statutory pre-conditions for invoking Section 6C(2) of the Act are not satisfied. Consequently, the provisions of Sections 6A(2) and 6A(3)(c) of the Act alone govern the present case. The inevitable result is that the respondent would be entitled only to the amount realised from the sale of the confiscated commodity through the Public Distribution System, and not to any amount calculated under Section 6C(2) of the Act or to interest thereon.

12.4 Since the confiscation proceedings had already been completed in accordance with law, the findings of the learned Single Judge are erroneous and unsustainable.

Conclusion:

13. An acquittal in a general criminal trial does not automatically trigger the higher compensation rates or interest provisions of the

Essential Commodities Act unless the specific statutory "pre-conditions" for that section are met. Following the Rule of Literal Construction, the respondent was acquitted of charges under Section 3(1) of the Essential Commodities Act and 5(a) of the Kerala Rationing Control Order, and not under Section 6A proceeding, payable of interest under Section 6C(2) does not apply.

13.1 For the aforesaid reasons, the finding of the learned Single Judge that Sections 6A(2) and 6A(3)(c) of the Act are not applicable is erroneous, as the goods seized, namely wheat, are perishable in nature and were required to be sold immediately through the Public Distribution System. We therefore hold that, in the facts of the present case, Sections 6A(2) and 6A(3) of the Act are applicable, and consequently, there is no question of granting any interest to the respondent.

13.2 Accordingly, we are of the considered opinion that the judgment passed by the learned Single Judge cannot be sustained and is hereby set aside. Consequently, the writ petition stands dismissed, and Ext.P7 order dated 29.05.2019 of the District Collector is hereby revived.

Result:

14. The writ appeal stands allowed. No order as to costs. All Interlocutory Applications as regards interim matters stand closed.

Sd/-
SUSHRUT ARVIND DHARMADHIKARI
JUDGE

Sd/-
P. V. BALAKRISHNAN
JUDGE

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