THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION No.19633 of 2015

ORDER:

The petitioner is a proprietary concern and the deponent of the affidavit filed in support of the petition is it's proprietor. The petitioner is engaged in rice milling business under a valid food grains licence issued by the District Supply Officer, Ranga Reddy District.

2. The petitioner contends that it had been doing such business and had submitted the F.G.L. licence for renewal on 25-03-2015 and had also paid challan No.150637 on 25-03-2015. The petitioner alleged that on 18-04-2015, the 4th respondent, along with other Officials, came to the petitioner's rice mill to conduct inspection and to verify records and registers. The petitioner alleges that 4th respondent alleged that some of the rice found in the petitioner's rice mill to the tune of 66 quintals was suspected to be P.D.S. rice and accordingly seized 94 Grade-A rice, paddy and broken rice on the ground that the petitioner was not maintaining proper records. Petitioner alleges that without verifying proper records, registers, bills, waybills and without conducting any

enquiry for analysis, the 4th respondent could not have concluded that the rice is meant for P.D.S. Petitioner alleges that a panchanama was conducted and a case under Section 6A of the Essential Commodities Act, 1955 (for short "the Act") was registered against it and that the seized stocks were handed over to another rice mill M/s.Devi Industries, Rampally for safe custody.

3. Petitioner further contended that it is doing rice milling business and submitting levy to the Telangana Civil Supplies Corporation where 3rd respondent is employed; that it had supplied 3196 quintals in April, 2015, of which it had to remit 75% towards levy i.e. 2141.32 quintals to the said Corporation and that it had submitted bills and waybills etc; that 270 quintals was delivered on 20-04-2015 and another installment of 270 quintals was delivered on 22-04-2015 of value Rs.12,96,000/-; and that 3rd respondent had not settled the payment for this rice which had been supplied by it. It is alleged that respondent no.3 is also not receiving further commodities of rice after the registration of the case under Section 6A of the Act. Petitioner alleges that unless the Corporation settles the accounts, the petitioner, its workers as well as farmers would suffer irreparable loss. Petitioner alleged that it had filed a representation

dt.28-04-2015 to

3rd respondent to release the entire stock seized and to accept the levy/free levy rice and also settle its account by releasing a sum of Rs.12,96,000/- for the rice delivered in April, 2015.

4. Counter affidavit was filed by 3rd respondent admitting that there was an inspection of petitioner's rice mill on 18-04-2015 and stating that a case under Section 6A of the Act had been booked against petitioner for non-maintenance of records. It was alleged that petitioner had delivered 540 quintals of rice on 20-04-2015 and 22-04-2015 without disclosing the fact that a case under Section 6A of the Act was booked against it on 18-04-2015 by 4th respondent. It was further stated that when the above consignment reached the godown at Kapra, the Technical Assistant went to the M.L.S. Point, Kapra and verified the same and found that the said rice was not conforming to the specifications. It was also stated that this was informed to the petitioner. But no proof of any communication given to petitioner was filed. The 3rd respondent also denied the liability to pay any amount to petitioner. In the counter of 3rd respondent certain other cases filed under Section 6A of the Act against petitioner were also set out.

5. When the matter was listed for hearing on 26-10-2015, the learned counsel for petitioner had contended that 3rd respondent had not issued any document in proof of receipt of 540 quintals delivered by petitioner on 20-04-2015 and 22-04-2015. The learned counsel for respondents informed the Court that the said quantity was not accepted by them in view of the fact that the petitioner was involved in Section 6A proceedings. Therefore on that day, this Court appointed Sri T.Balaji, Advocate as Commissioner to verify and inspect whether the rice alleged to have been supplied by petitioner was still in the godown at Kapra M.L.S. point and directed the Commissioner to submit a report by 29-10-2015.

6. The Advocate-Commissioner visited the said godown and filed a report on 09-11-2015 stating that 540 quintals of rice delivered by petitioner was still in the premises of 3rd respondent.

7. However, on 12-11-2015 learned counsel for 3rd respondent produced before this Court, a photocopy of Dumping Register Proforma, which indicated that the stock received from petitioner on 21-04-2015 and 22-04-2015 was rejected. He also produced Rejected Lot Register, which also indicate that the stock supplied by

petitioner was not accepted and was rejected.

8. In the absence of any communication given by 3rd respondent to petitioner about rejection of 540 quintals of paddy supplied by petitioner to 3rd respondent on 20-04-2015 and 22-04-2015, it cannot be accepted that there was any rejection at that point of time. It also creates a strong suspicion that the Dumping Register as well as Rejected Lot Register copies produced by respondents were fabricated subsequently only with a view to create some evidence for denying the liability of 3rd respondent to pay the petitioner.

9. If really 3rd respondent had not accepted the said rice and had rejected it at the time of delivery itself, the said rice would not have been found in the godown of 3rd respondent when the Advocate-Commissioner visited it on 07-11-2015.

10. In this view of the matter it has to be construed that 3rd respondent had accepted the levy free rice of 540 quintals delivered by petitioner to the 3rd respondent on 20-04-2015 and
22-04-2015 of value Rs.12,96,000/- and the action of 3rd respondent in saying that the 540 quintals of levy rice

supplied by petitioner on 20-04-2015 and 22-04-2015 had been rejected on that day itself, is not sustainable.

11. The Writ Petition is allowed accordingly and 3rd respondent is forthwith directed to make payment for the same to the tune of Rs.12,96,000/- and also pay costs of Rs.3,000/- (Rupees Three Thousand only) to petitioner.

12. As a sequel, miscellaneous petitions pending if any, in these Revisions shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 15-12-2015
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