***HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

+ **<u>WRIT PETITION No.591 OF 2008</u>**

%17.12.2015

M/s. Sri Balaji Dal Producers and others

.....Petitioners

And

The Director of Agricultural Market Committee, Hyderabad and others.

.....Respondents

! Counsel for the appellants: Sri Sai Gangadhar Chamarty

^ Counsel for respondents: Government Pleader for Food & Agriculture (A.P) &
Government Pleader for Food & Agriculture (T.S)

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> Head Note:

? Cases referred:

1. 1996(4) ALD 801 (D.B)
2. 1998(3) ALD 167 (D.B)

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

<u>WRIT PETITION No.591 OF 2008</u>

<u>ORDER</u>:

This writ petition is filed challenging the action of the respondents in collecting the fee under the provisions of the A.P. Agricultural (Produce & Livestock) Market Act, 1966 (for short "the Act") for the goods in transit, which are purchased outside the State of Andhra Pradesh, through the respondents Agricultural Market Committee as arbitrary, illegal and capricious and violation of fundamental rights guaranteed under the Constitution of India.

It is the case of the petitioners that they are all carrying the business of Dall Mills having obtained the licenses under the Sales Tax Act and also from the Agricultural Market Committee for doing the said business in and around the Nellore District. For the purpose of carrying on business, the petitioners purchase pulses from the States of Maharashtra and Karnataka apart from procuring the pulses from local markets. It is further stated that at the time of purchasing the pulses, the petitioners paid the market fees at the purchase point and the goods are imported into their respective Dall Mills. Petitioners further state that they are neither purchasing nor selling any commodities within the market area of the respondents- Marketing Committees. However, they assert that they are paying the fees to the concerned Marketing Committees. The main grievance of the petitioners in the present writ petition is that their vehicles are being stopped at the check posts and the respondents-authorities are insisting for payment of the market fee. Inasmuch as they are not purchasing pulses or selling the pluses within the respective market areas, the question of checking the vehicles and paying the market fees at the check posts does not arise. The stopping of the vehicles and that insistence of the respondents to pay the market fees is causing hindrance to their right to carry on business. Hence, the present writ petition.

Though the writ petition is of the year 2008, none of the respondents have filed any counters denying the allegations made by the petitioners.

When the matter is taken up for hearing, the learned counsel for the petitioners placed on record two judgments of the Division Bench of this Court reported in **Modern Nutrition Company, Hyderabad vs. Agricultural Market Committee and others**[1] and **Kurnool District Rice Millers Association and others vs. Agricultural Market Committee, Amtakur and others**[2]**.** Learned counsel for the petitioners had also relied on the judgment dated 04.04.2002 of the single Judge of this Court in W.P.No.17932 of 2001. The purport of these judgments is to the effect that the Market Committees are not entitled to collect any market fees at check posts and they do not have the jurisdiction to stop the vehicles for collection of market fees at the check posts.

This Court while admitting the writ petition, had passed the following interim order on 18.01.2008 in W.P.M.P.No.669 of 2008:

> "In view of the facts and circumstances explained and also in the light of the order made by this Court in W.P.M.P.No.34509 of 2006 in W.P.No.26855 of 2006, dated 27.12.2006, there shall be interim direction to the respondents not to collect any market fee from the petitioner for the goods in transmit that are being transported through their respective market areas, having purchased the goods from outside States provided that the petitioner produces sufficient evidence to show that he has paid market fee elsewhere."

Section 12A of the Act provides for submission of returns of turnover by the trader. Section 12B of the Act provides for assessment of market fees. Rule 74 of the Rules made thereunder provides for the remission being given to the market fees paid earlier. In other words, there is an adequate safeguard in terms of Section 12A and 12B of the Act read with Rule 74 of the Rules made thereunder to check and verify the sale and purchase transactions carried on by the traders like petitioners. The petitioners assert that they are all registered traders having obtained the licenses to carry on the business within the jurisdiction of their respective market committees. This aspect has not been denied by the respondents and there is no counter-affidavit as such has been filed, as stated supra. In the light of the law declared by this Court in the judgments referred to, the insistence for payment of market fees at the check posts cannot be sustained.

In the case of **Kurnool District Rice Millers**

Association (2 supra), this Court had formulated four guidelines, which reads as under:

> "(i) that if there is a sale or purchase of agricultural produce, livestock or. products of livestock within a market area for the first time, the market fees is liable to be paid;
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> (ii) it is the purchaser who is liable to pay the market fees and only if the purchaser cannot be identified, then the seller can be obligated to pay the said market fees;
>
> (iii) the agricultural produce, livestock and products of livestock which are carried by any means and entering into the area of a Market Committee, cannot be subject to pay the market fees for the second time if proof is produced before the Officers of the Market Committee of the market fees having been paid in another Market Committee; and
>
> (iv) even at the check-posts, the same procedure has to be followed as referred to above in clause (iii)."

In the light of the authoritative pronouncements of this Court, the present writ petition is disposed of in terms of the judgment of this Court reported in **Kurnool District Rice Millers Association** (2 supra). However, the respondents-authorities are at liberty to verify and make assessments with regard to their respective turnovers in respect of Sections 12A and 12B of the Act from year to year.

With the above observations, the writ petition is disposed of. No order as to costs.

Miscellaneous Petitions pending, if any, in this writ petition shall stand dismissed.

CHALLA KODANDA RAM,J

Date:17.12.2015.
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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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[1] 1996(4) ALD 801 (D.B)

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