

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.23579 of 2011

Dated 17th June, 2015

Between:

Miriyala Narasimha Rao

...Petitioner

And

The Joint Collector, Khammam and others

...Respondents

Counsel for the petitioner: Sri M.M.M.Srinivas

for Sri Kowturu Vinaya Kumar

Counsel for the respondents: GP for Forests (TS)

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to declare the inaction of respondent No.1 in taking action on the petitioner's representation, dated 12.08.2011, for initiating action against respondent Nos.2 to 4 for sale of the seized stock without notice to the petitioner as illegal and arbitrary.

The petitioner claims to be an agriculturist as well as Proprietor of a non-trading rice mill at Kuchipudi Village, Kodada Mandal, Nalgonda District. It is stated in the affidavit filed in support of the writ petition that on 03.01.2010, 150 quintals of rice being transported in 300 bags was seized along with lorry on the allegation that the same is meant for public distribution system. Proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') were initiated. The petitioner has filed W.P.No.2736 of 2010 for release of the seized stock as well as the lorry. This Court while declining to

order release permitted the petitioner to file an application before respondent No.1 for release of the seized stock and lorry with a direction to the latter to dispose of the same within two weeks. This Court further directed that till an appropriate order is passed, the seized stock shall not be sold.

Thereafter, by his order, dated 08.03.2010, respondent No.1 has released the seized lorry, but not the seized stock. The petitioner has therefore filed W.P.No.8804 of 2010, which was disposed of by this Court by directing respondent No.1 to complete the enquiry as expeditiously as possible. Thereafter, respondent No.1 has issued a notice under Section 6-B of the Act and the petitioner has submitted his explanation thereto.

The cause of action for filing the present writ petition is that while the proceedings under Section 6-A of the Act are pending, the petitioner came to learn that the seized stock was illegally sold by respondent Nos.2 to 4 at a low price of Rs.190/- per quintal as against the cost of Rs.1,500/- per quintal in the open market. The petitioner has specifically alleged that without notice to him and any order passed by respondent No.1, respondent Nos.2 to 4 have sold the seized stock unauthorisedly.

This Court by order, dated 20.08.2011, directed respondent No.1 to enquire into the allegations of the petitioner referred to above and submit a report to this Court.

On behalf of respondent Nos.1 to 4, respondent No.1 filed a counter affidavit, wherein it is *inter alia* stated that following rejection of the petitioner's application for release of the seized stock, the same was sold in public auction. He has also justified sale of the seized stock at Rs.190/- per quintal as no one has come forward for purchase of rice in response to the first notice, requiring postponement of auction on four dates and that the rice was finally disposed of at the above-mentioned rate on 30.07.2011.

As directed by this Court, respondent No.1 has submitted the

enquiry report, wherein he has stated that he has issued proceeding in M.C.No.19/2010, dated 03.03.2010, directing interim disposal of the seized stock and that accordingly respondent No.2 has issued auction notice and tried to sell the seized stock on 29.03.2010 and 28.06.2010, but as no licence holder has participated in the auction, the stocks were not disposed of. It is further stated that in the absence of demand for purchase of the stocks, respondent No.2 has requested respondent No.1 for permission to dispose of the same under public distribution system, as the rice is in damaged condition and affected by insects. That, however, while declining the said request, respondent No.1 has directed respondent No.2 vide his letter, dated 09.06.2011, to once again put the seized stock to auction. That accordingly, respondent No.2 has auctioned the seized rice on 30.07.2011 which fetched the price of Rs.190/- per quintal.

The learned Government Pleader has placed before the Court the above-mentioned two proceedings issued by respondent No.1.

From the facts narrated and the material discussed above, this Court is convinced that the stock was sold by respondent No.2 in pursuance of the proceedings issued in writing by respondent No.1 and that the sale of the stock, therefore, cannot be termed as either illegal or unauthorised.

For the above-mentioned reasons, the writ petition fails and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.Nos.28879/11 and 49926/12 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

17th June, 2015
VGB