THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.31356 of 2010

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Between:

Chinni Srinivasa Rao

PETITIONER

AND

1. The Assistant Grain Purchasing Officer, Gudivada, Krishna District, and another.

RESPONDENTS

ORDER:

The surcharge order dated 30.07.2010 in E.C.No.68 of 2009 reducing only 30 quintals out of 50 quintals by modifying the orders of the Joint Collector, Krishna at Machilipatnam in E.C.A.No.540 of 2008 dated 10.04.2009 confiscating 50 quintals, is under challenge in this writ petition.

The petitioner is a Kirana merchant. The 1st respondent inspected the business premises of the petitioner on 13.12.2008, found variation of 49.70 quintals of rice between book balance and ground balance, conducted panchanama and submitted a report before the 2nd respondent. Basing on the said report, the 2nd respondent issued show cause notice to the petitioner and after following due process, issued proceedings under Section 6-A of the Essential Commodities Act, 1955 confiscating excess 50 quintals. Aggrieved by the same, the petitioner preferred an appeal before the District Judge, Krishna District in E.C.No.68 of 2009 invoking Section 6-C of the Act. The District Judge vide order dated 30.07.2010 modified the order of confiscation from 50 quintals to 30 quintals. Challenging the same, the present writ petition is filed.

Sri V.H.R.R. Swamy, learned counsel for the petitioner contends that as per Clause 18 (iii) and (iv) of the A.P. Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008 non-maintenance of stock register on a particular date, due to sickness, pressure of work or inevitable circumstances, is inexcusable. In that view of the matter the petitioner ought to have been given an opportunity to rectify the entries in the stock register by considering the explanation submitted by him. With respect to the non-submission of C-Form returns, learned counsel submits that the petitioner may be given an opportunity.

A counter affidavit has been filed by the 1st respondent stating that on 13.12.2008 at about 3 p.m., the he conducted a surprise visit on the premises of the petitioner and found that there was 165.50 quintals of rice in the premises, but in the stock register only 115.80 quintals has been shown, thereby there is variation of 49.70 quintals, and thus the petitioner violated the Conditions 3(1) (b) and 3(1) (c) & 4 and Clause 18(2)(b) of the control order. Therefore, he filed a case under Section 6-A of the Act before the Joint Collector, Krishna District. The petitioner submitted explanation stating that on the same day morning he had received 20 quintals of rice at 8. am., from Jayalaxmi Rice and General Traders, Pedana and another 30 quintals at about 1.00 pm., from Sri Venkata Padmavathi Modern Rice Mill, Mallypalem Village hamlet of Gudivada and due to urgent work he could not enter the same in the stock register. Not satisfied by the explanation, the 2nd respondent ordered confiscation of 50 quintals excess rice. On appeal the District Judge by order dated 30.07.2010 modified the order of confiscation of rice from 50 quintals to 30 quintals and the same has become final. Hence he prayed to dismiss the appeal.

On perusal of the record it is evident that the learned District Judge recorded a finding that with regard to 20 quintals of rice permit was given by the Collector, Krishna District on 4.12.2008 permitting the petitioner to transport two tones of raw rice from M/s. Sri Jayalakshmi Rice and General Traders and the same was valid up to 15.12.2008. The petitioner also furnished original transport permit dated 13.12.2008 issued by the agricultural Market Committee, Pedana and cash/credit bill of Sri Jayalakshmi Rice and General Traders Dated 13.12.2008. So far as 30 quintals of rice is concerned, the permit issued by the Collector on 28.05.2008 was valid up to 11.06.2008 only. In view of the same, the explanation submitted by the petitioner that 30 quintals of rice was transported to his shop on 13.12.2008 under the said permit is only invented, and hence, not acceptable. The said finding has become final and the same cannot be brushed aside. However, considering the fact the petitioner has received 20 quintals of rice on 13.12.2008 under proper acknowledgment, the learned District Judge had modified the order of the 2nd respondent confining it to confiscation of 30 quintals instead of 50 quintals.

Thus the factum of there being variation was confirmed and the order passed by the learned District Judge under Section 6-A has not been challenged by the respondent authorities. In that view of the matter, the writ petition does not merit consideration and is liable to be dismissed.

Accordingly, the writ petition is dismissed. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

CHALLA KODANDA RAM, J.

15th December, 2015

Js.