

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.23149 of 2006

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Between:

M/s. Sasanapuri Kesavarao Commercial Enterprises,

G.T. Road, Kasibugga, Srikakulam District,

Rep. by its Proprietor, Mr. S. Kameswara Rao

PETITIONER

AND

1. The Government of A.P. rep. by its Secretary Food and Agriculture
(Marketing Department, Secretariat, Hyderabad, and others.

RESPONDENTS

ORDER:

This writ petition is filed for the following relief –

“.....to issue a writ or order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ declaring that para 4(ii) of G.O.Ms.No. 451 dt. 19-11-2005 is ultra vires the provisions of the A.P. Markets Act and violative of the rights guaranteed under Article 14, 19 (1)(g) and 300A of the Constitution of India and consequently declare the notice vide proceedings No. 86/C/2003-08 dt.11-9-2006 issued by the 3rd Respondent calling on

the petitioner to pay market fee on the sale of rice as arbitrary illegal and ultra vires the provisions A.P. (Agricultural produce and livestock) Markets Act, 1966 and grant such other relief as it deems fit in the circumstances of the case”

The petitioner is engaged in the business of operating rice mills by purchasing paddy from individual growers. On every purchase of paddy the petitioner used to pay market fee to the respondent market committee in accordance with the provisions of the A.P. Agricultural (Produce & Live Stock) Markets Act, 1966 (for short ‘the Act’). Though rice is notified as agriculture produce in the year 1978, the petitioner is not paying any market fee on the sale of rice. From December 2002 the Market Committee started demanding payment of market fee on the sale of rice by placing reliance on the judgments of the Supreme Court. Aggrieved by the levy and collection of the market fee on the rice, earlier some rice millers filed writ petitions challenging the notification in including the rice as a notified commodity, and the said writ petitions were dismissed. Aggrieved by the same some writ petitioners filed Special Leave Petitions in the Supreme Court and the same are pending.

Thereafter, the Government issued G.O.Ms.No.451 dated 19.11.2005. While granting exemption, at paragraph-4(ii) the Government ordered that “the rice millers have to pay market fee @ 1% on the rice sold within the State. While so, the 3rd respondent-Market Committee issued notice dated 11.09.2006 demanding the petitioner to file returns of purchase and sale of rice and pay market fee accordingly under the provisions of the Act. Aggrieved by the same, the present writ petition is filed.

This Court while admitting the writ petition on 8.11.2006 granted interim stay of all further proceedings pursuant to the notice issued by the 3rd respondent.

When the matter is taken up for hearing, learned counsel for the petitioner placed on record a copy of the judgment rendered by this Court in W.P.No.23752 of 2006 and batch dated 21.10.2014 whereby allowing the writ petitions by declaring Paragraph-4(ii) of G.O.Ms.No.451 dated 19.11.2005 as contrary to Section 12(2) of the Act. The relevant portion of the judgment reads as under.

“In view of the above discussion, all the Writ Petitions are allowed and the impugned paragraph 4(ii) of G.O.Ms.No.451,

Agriculture & Cooperation (MKTG.II) Department, dated 19.11.2005 is held contrary to Section 12(2) of the Act. However, this will not preclude the market committee from taking action in pursuance of the proviso to Section 12(2) of the Act wherever the situation demands.”

This aspect has not been disputed by the learned counsel for the respondents.

In as much as the issue in the present writ petition is squarely covered by the judgment rendered in W.P.No.23752 of 2006 dated 21.10.2014, this writ petition is allowed in terms of paragraph-10 of the above referred judgment.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

6th November, 2015

Js.