**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**WRIT PETITION No.20988 of 2015**

**ORDER:**

Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents.

The petitioner is a Proprietor of the fertilizers shop, which was being run under a valid licence issued by the fourth respondent. While so, the Inspector of Fertilizers inspected his shop on 02.07.2014 and seized the entire stock worth Rs.50,01,723/- under the Fertilizers (Control) Order and proceedings under Section 6A of the Essential Commodities Act were initiated. The 6A proceedings ended in confiscation of 20% of the seized stock, by order dated 19.11.2014. Challenging the said order, the petitioner preferred Criminal Appeal No.96 of 2014 before the learned Principal Sessions Judge, Mahabubnagar, and the order of confiscation of 20% of the seized stock was modified to Rs.44,302/-. The petitioner paid the said amount on 02.03.2015. In spite of the same, the stock was not released to the petitioner. While so, another show cause notice was issued to the petitioner on 18.06.2015 stating that the Joint Director of Agriculture, Mahabubnagar, noticed that there was variation in the seized stock, which was kept with one M/s.S.V.Narsimhulu & Sons, and he submitted an explanation stating that the petitioner, being his brother, took the keys of his shop and did not return the same, as a result of which, the variation in the stock might have taken place. Based on the same, ultimately the impugned order was passed on 23.06.2015 cancelling the licence of the petitioner, which was valid up to 31.03.2016. Challenging the same, the present Writ Petition is filed.

It is clear from the above facts that pursuant to the inspection conducted on 02.07.2014, the stock was kept in charge of M/s.S.V.Narsimhulu & Sons. Later on 6A proceedings were initiated and they ended in payment of Rs.44,302/- by virtue of an order in Criminal Appeal No.96 of 2014, dated 16.02.2015. The present issue relates to variation in the seized stock itself. When once the stock is seized, it is the responsibility of the person who was kept in charge of the same or the Government which seized the stock. The petitioner, who was the owner of the seized stock, cannot be made liable for variation in the quantity of the seized stock, whatever may be the explanation with regard to the same submitted by M/s.S.V.Narsimhulu & Sons, who was given custody of the seized stock. The respondents should have taken action against M/s.S.V.Narsimhulu & Sons for variation in the seized stock. But, the licence of the petitioner cannot be cancelled on the ground that there was variation in the seized stock.

In the circumstances, the impugned order dated 23.06.2015 in so far as the petitioner is concerned, is set aside and the Writ Petition is, accordingly, allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

**(A.RAMALINGESWARA RAO, J)**

13.07.2015

Note: Issue C.C in one week.
B/o.
vs