

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.3601 of 2010

DATE: 05.11.2015

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Between:

The Manipur State Handloom Weavers

Cooperative Society Limited,

Rep. by its Authorised Representative,

Sri K. Chandrasekhar Reddy.

PETITIONER

AND

1. The Government of Andhra Pradesh, rep. by its Principal Secretary to Government, Environment Forests Science & Technology (For.III) Department, Secretariat Buildings, Hyderabad, and another.

RESPONDENTS

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.3601 of 2010

ORDER:

This writ petition is filed for the following relief –

“....issue an appropriate writ, order or direction more particularly one in the nature of a writ of Mandamus declaring the

action of the Respondents in seeking to collect price at Rs.2,19,998/- per M.T of Red sanders in the quantity of 68 MTS of Non -Graded Red Sanders wood at Rs.2,19,998 per MT instead of Rs.85,000/- per MT by quashing if necessary G.O.Rt.No.71 dt.08-02-2010 Environment, Forests, Science & Technology(For -III) Department and declaring the action as arbitrary, illegal, unjust and contrary to law in violation of Fundamental Rights guaranteed under Articles 14 and in violation of consequential Guarantee under Article 300-A of the Constitution of India in the interest of justice...”

As per the averments made in the writ petition, the petitioner is a registered cooperative society sponsored by the Government of Manipur. It has made application for 100 MTs of Non-Grade Red Sanders wood. The Principal Chief Conservator of Forests-respondent No.2 herein sent recommendations to the 1st respondent on 30.01.2004, based on which the 1st respondent issued G.O.Rt.No.24, Environment Forests Science & Technology (For.III) Department, dated 09.02.2004 permitting the petitioner society to purchase 100 MTs of Non-Grade Red Sanders wood at the rate of Rs.24,000/- per M.T. on cash and carry basis by imposing certain conditions. The material was required to be lifted within a period of one month from the date of receipt of the orders and if the petitioner fails to pay the total sale consideration the order stands cancelled without any further notice. Due to some unavoidable reasons, the petitioner-society could not lift the entire 100 MTs stock allotted to it and could only lift 32 MTs leaving behind an unused quantity of 68 MTs. Hence, the petitioner made an application dated 25.04.2007 to the Minister for Forest and Environment setting out the reasons for not lifting the entire stock and requested to re-allot the unused 68 MTs of Non-Grade Red Sanders wood to carry out its required functions. The petitioner also made a representation to the Hon'ble Chief Minister of Andhra Pradesh on 28.07.2007 seeking to restore G.O.Rt.No.24. Thereafter the 2nd respondent issued proceedings dated 30.08.2007 stating that 'the request of the petitioner is not accepted and it is deferred'.

Challenging the said proceedings the petitioner filed W.P.No.9425 of 2008, which was allowed in part by this Court on 07.04.2009 declaring that the petitioner was entitled to purchase the balance quantity of 68 MTs of Red Sanders wood at the present market value stipulated by respondent No.1 within one month. As the respondents herein failed to comply with the directions of this Court, the petitioner filed C.C.No.1841 of 2009, which is pending. Thereafter, the Government issued G.O.Rt.No.71, dated 08.02.2010 to stall the

petitioner from purchasing

68 MTs of Red sanders. Challenging the same the petitioner filed the present writ petition.

A counter affidavit is filed by the respondent-authorities disputing the allegations made in the writ affidavit.

Heard learned counsel for the petitioner and learned Advocate General (Andhra Pradesh) for respondents.

This Court ordered Rule Nisi on 05.03.2010. Thereafter, interim order has been passed on 22.04.2010 in W.P.M.P.No.4717 of 2010 and the same was modified on 09.06.2010 in W.P.M.P.No.15436 of 2010 by allowing the petitioner to lift the material on payment of Rs.1.19 lakhs per MT apart from furnishing Bank Guarantee for the differential value as mentioned in G.O.Rt.No.71, dated 08.02.2010.

On perusal of the material on record, it is clear that the petitioner failed to adhere to the conditions imposed by this Court. Further it has come to light that the deponent of the affidavit viz., Sri K. Chandrasekhar Reddy had furnished fake bank guarantee to comply with the orders of this Court dated 09.06.2010. When the same is noticed the respondents refused to allow the petitioner to lift the balance material. The learned counsel for the petitioner pleaded that on coming to know of the misdeed which has been perpetuated by Sri K. Chandrasekhar Reddy, the deponent of the writ affidavit, Smt. Seityabhama Devi W/o. (L) S. Mera Singh, was authorized as Chair-person to represent the petitioner-organization, who in fact had filed W.P.M.P.No.25027 of 2014 to permit her to henceforth represent the petitioner-organization, which was ordered today.

Though the arguments of the learned counsel for the petitioner that Sri K. Chandrasekhar Reddy is the person, who has perpetuated and who furnished fake bank guarantee, the fact remains that fake bank guarantee had been furnished in the name and for and on behalf of the petitioner-organisation. In view of the same, non-compliance of the orders of this Court, rejecting the request of the petitioner by the respondent-authorities cannot be found fault with as there is no implicit fulfillment of the conditions imposed by this Court 22.04.2010 as modified on 09.06.2010. Apart from that, the relief, which has been sought by the petitioner cannot be granted

particularly in the facts of the present case, as the same would virtually amount to entering into arena of enforcement of agreement of sale/purchase of goods. The matters of this nature are better left to be decided in appropriate civil proceedings. In that view of the matter, the very writ petition itself is not maintainable.

Accordingly, the writ petition is dismissed. However, the observations made in this writ petition are only for the purpose of deciding this writ petition and the same shall not be construed as expressing any opinion with respect to various allegations and counter allegations made between the parties.

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

CHALLA KODANDA RAM, J.

5th November, 2015

Js.