THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION Nos.18908, 20474, 20802, 20841, 22004, 22173, 23353, 22003 OF 2012

COMMON ORDER:

Since the issue involved in all these writ petitions is one and the same, they are heard together and being disposed of by this common order.

2. These writ petitions are filed challenging the proceedings of the Food Corporation of India (FCI) in directing the petitioners to deliver the balance left over quantity of rice pertaining to Khariff Marketing Season (KMS) 2007-2008 at the old rate prevailing prior to 24.06.2008.

3. The facts in the issue are as under:

(i) The petitioners are the rice mills engaged in the business of purchasing paddy from farmers and milling the same into rice. As per Clause 3 of the Control Order, every miller shall sell to the Food Corporation of India or the State Corporation at the procurement price of 50% of the total quantity of (a) each variety of rice confirming to specification owned, which is held in stock as on the date of commencement of this order (b) each variety of rice confirming to specification got milled every day out of the stocks of paddy and (c) each variety of rice confirming to specification purchased or otherwise acquired for the purpose of sale from persons other than a licensed miller or a licensed dealer. Further, every miller or licensed dealer or any person, who intends to transport paddy to places outside the State, shall sell rice at notified prices to the Food Corporation of India/State Corporation after converting the paddy into rice equivalent to the quantity proposed to be transported. The levy quantities are to be decided by the Government from time to time.

(ii) For the Khariff Marketing Season 2007-08, the levy of supply of rice was fixed at 75%. Therefore, the petitioners were obliged to deliver 75% of the milled rice towards levy either to the FCI or sell the same as directed by the Government in exercise of powers conferred on it under the Essential Commodities Act. As there was sudden rue in price of rice during the year 2007-2008, the Collectors were instructed to ensure that each rice miller shall deliver the balance levy rice procurement expectations for the KMS 2007-08 without fail. The Government of A.P., Consumer Affairs, Food and Civil Supplies Department, issued a memo dated 04.10.2008, pursuant to the decision of Group of Ministers meeting dated 03.10.2008, wherein it was decided that (i) raw rice stocks available and the resultant raw rice derived out of paddy milled with the rice mills as per B-Register shall be allowed to be sold through special permits to be issued by the Collectors/District Supply Officers for sale within the State without reference to the levy delivered, and the raw rice shall not be allowed under any circumstances to be moved to the places outside the State (ii) it was also decided that as the boiled rice is not consumed within the State, the boiled rice stocks available with the rice millers/traders as per B-Register and the resultant boiled rice derived out of paddy milled as per B-Register shall be allowed to be sold through special permits to be issued by the Collector without reference to the levy delivered for sale within and outside the State. (iii) Keeping in view the fact that the Khariff Marketing Season of 2007-08 is over by 30.09.2008, the Government should direct that the stocks belonging to KMS 2007-08 held by the rice millers/traders need to be made available as raw rice within the State, to control the price of rice in the local market. In order to liquidate the stock, the Government of A.P. issued necessary orders to all the Collectors to issue special permits for movement of raw rice within the State and outside. Pursuant to which, the District Collectors issued special permits and all the rice millers including the petitioners liquidated the stock of KMS 2007-2008, in tune with the Government instructions. The Food Corporation of India did not insist for supply of the balance, if any, from the millers as every District has supplied more than the quantity fixed for the District. As the petitioners were forced to sell their levy free rice within the State of A.P., to bring down the price of rice, the said quantity also formed part of 75% levy fixed by the Control Order. But the Food Corporation opined that the petitioners have not supplied 75% of the rice prior to 24.06.2008. Questioning the action of the Food Corporation in insisting the petitioners to supply levy rice during the current khariff season at levy price that was prevailing prior to 24.6.2008, as illegal and arbitrary. Hence, the petitioners approached this Court by filing these writ petitions.

4. The learned Counsel for the petitioners submitted that by an Order, dated 07.04.2015, in W.P.Nos.11106 of 2010 and Batch, a learned Single Judge of this Court directed the authorities of the State to constitute a committee consisting of the same authorities, who participated in the meeting held on 27.04.2010, on or before 20.05.2015 and decide the issues raised against the proceedings in question, as expeditiously as possible, preferably within a period of two months thereafter. It was further said that till then, the proceedings under challenge were directed to be kept in abeyance.

5. When these matters are taken up for hearing, the learned

Standing counsel for FCI placed on record the proceedings, dated 29.08.2013, issued by the Government of India, which are as under:

> "1. In continuation of this Department's letter of even number dated 14.08.2013, it is further clarified that as far as any pending quantity of levy from the millers beyond the cut-off date prescribed by this Department for a particular marketing season is concerned, with regard to the extension of period of delivery of levy rice to FCI, the same principles and procedure will be followed as laid down vide this Department's letter of even number dated 25.06.2013.
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> 2. It is further clarified that FCI will not take delivery of any levy rice from the mills/State Governments beyond the prescribed period or after the extended period of delivery and State Government will have to take necessary adverse action against the defaulting millers as per the provisions of the statutory levy order notified by the concerned State Government.
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> 3. It is also clarified that since the period/extended period of delivery of levy rice for all previous Khariff Marketing Seasons of up to KMS 2011-12 is already over, no levy rice will be received by FCI for these seasons, however, wherever any litigations are pending, the FCI will be taking appropriate decision in this regard based on the outcome of such litigations."

6. The learned counsel for the petitioners submitted that insofar as Clauses 1 and 2 of the above proceedings are concerned, the same shall be directed to be implemented against millers, but opposes implementation of Clause 3. It is his case that the issue will go back to square one, if the FCI authorities are directed to take action, since his grievance in all these writ petitions is that FCI has no authority to take any action as the entire distribution of rice, milled by the petitioners, is under the control of the State Government.

6. At this stage, learned Standing counsel for the FCI submits that the State authorities may be directed to take appropriate action against the millers in case the millers failed to supply rice

as notified, leaving the issue of action to be taken by the FCI open. The learned counsel for the petitioners did not dispute the same.

7. Hence, keeping the issue, as to whether the FCI can take action against the defaulting millers open, the present writ petitions are disposed of directing the State Government to take necessary action against the defaulting millers as per the provisions of the statutory levy order notified by the concerned State Government, and in terms of Clauses 1 and 2 of the letter, dated 29.08.2013 issued by the Government of India.

Consequently, Miscellaneous Petitions, if any, pending in these writ petitions shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:20.11.2015
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