

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE**

**AND**

**THE HON'BLE SRI JUSTICE S.V. BHATT**

**W.P.No.19125 OF 2004**

**ORDER:** *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard learned counsel for the petitioner Sri Y.V.Ravi Prasad and the learned Standing Counsel Sri K.Madhava Reddy for respondent.

The petitioner prays for Mandamus declaring notice Roc.No.180/02 dated 20.09.2004 of the respondent, as illegal and contrary to Section 12B (5) of the Andhra Pradesh (Agricultural Produce & Livestock) Markets Act, 1966. Through the impugned notice, the respondent called upon the petitioner as follows:

“Till this date you have not either corrected the returns for the year 2002 and submitted the same to this office nor have given any explanation for non-submission of the same. As it appears from the above that you have intentionally violated section 7(5) and Section 2(1) of the Market Act, 1966. A market fees of 0.5% which amounts Rs.8,89,344.45 is levied under Section 12(1) of the Market Act, 1966 on Rs.17,78,68,886/- which is the difference of turnover. Prawn purchase per the report of the Vigilance and Enforcement Department, Hyderabad for the year 2001-2002 lest action shall be taken as per Section 23 of Agriculture Market Act, 1966.”

Through order dated 14.10.2004, this Court granted interim suspension as prayed for. The interim order is subsisting as on date. Learned counsel for the petitioner raises several factual and

legal contentions against the impugned notice. One of the contentions is that without affording opportunity of being heard

or actual determination of market fee in accordance with the Act or Rules made thereunder, straight away a notice was issued tentatively arriving at Rs.8,89,344.45/- Ps. on the difference turnover of Rs.17,78,68,886/-. According to the petitioner, the

petitioner is not liable to pay the difference of market fee.

*Per contra*, learned counsel appearing for the respondent by placing strong reliance upon the details available in the impugned notice supports the demand of market fee as noticed earlier.

We have perused the material available on record and taken note of the submissions of the learned counsel appearing for the parties. The petitioner challenges notice dated 20.09.2004.

The notice is challenged on various grounds. As the challenge in the writ petition is to a notice, we do not propose to consider and decide the objections raised by the petitioner. The matter requires consideration at the first instance by the respondent. Therefore, we are satisfied that the writ petition can be disposed of by this order:

- i. the petitioner is given four weeks time from the date of receipt of a copy of this order to file explanation/reply to the notice dated 20.09.2004;
- ii. the respondent is directed to consider the explanation/ reply of petitioner and afford opportunity of hearing to the petitioner and pass orders on the notice dated 20.09.2004;
- iii. the respondent is directed to complete the said exercise without fail within three months from the date of receipt of explanation/reply from the petitioner; and
- iv. till a decision is taken and communicated to the petitioner, the interim order already granted is directed to be continued.

The writ petition is, accordingly, disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

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**DILIP B. BHOSALE, ACJ**

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**S.V.BHATT, J**

Date: 12.11.2015

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