

*** The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

+ Writ Petition No.34452 of 2012

% Dated 06.08.2015

Between:

Sri Cherukuri Veerabhadraiah

... Petitioner

and

-
The Govt. of A.P.,
rep. by its Secretary,
Dept., of Food & Civil Supplies,
Hyderabad and 2 others.

...Respondents

! Counsel for the petitioner: Mr.K.Jagadishwar Reddy

^ Counsel for the respondents: AGP for Civil Supplies (TS)

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? Cases cited:

1997 (5) ALD 809 (DB)

**In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra
Pradesh**

Writ Petition No.34452 of 2012

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Date of Judgment Pronounced: 06-08-2015

Submitted for Approval:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

1. Whether Reporters of Local newspapers
Yes/No
may be allowed to see the judgments ?
2. Whether the copies of judgment may be
Yes/No
marked to Law Reporters/Journals
3. Whether Their Ladyship/Lordship wish to
Yes/No
see the fair copy of the Judgment ?

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

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Counsel for the petitioner: Mr.K.Jagadishwar Reddy

Counsel for the respondents: AGP for Civil Supplies (TS)

The Court made the following:

Order:

This Writ Petition is filed for a Certiorari to call for the records pertaining to MC.No.221/2012 and quash the order of confiscation, dated 29-09-2012, passed therein by respondent No.2.

I have heard Mr.K.Jagadishwar Reddy, learned Counsel for the petitioner, and the learned Assistant Government Pleader for Civil Supplies (TS) representing the respondents.

The petitioner pleaded that he is running a shop, for sale of cotton seeds to farmers for raising cotton crops, in Khammam Town; that, on 22-06-2012, respondent No.3 along with the Vigilance and Enforcement officials inspected his shop and seized 1532 packets of Brahma BG II brand and 795 packets of Bhaskar 9 BG II brand cotton seeds, only on the ground that there is variation between the ground balance and the book balance; that

following the inspection, the petitioner received show cause notice, dated 05-07-2012, under Section 6-B of the Essential Commodities Act, 1955 (for short 'the Act'); and that in reply thereto, the petitioner has submitted a detailed explanation on 21-07-2012. However, respondent No.2 has passed the impugned order on 29-09-2012 confiscating 72 packets of Brahma BG II brand and 160 packets of Bhasker 9 BG II brand cotton seeds, the total value of which comes to Rs.2,15,760/-. Feeling aggrieved by this Order, the petitioner filed this Writ Petition.

The fulcrum of the petitioner's case is that the cotton seeds are no more an essential commodity with effect from 12.02.2007, on which date the Essential Commodities (Amendment) Act, 2006 (Act 54 of 2006), amending the Schedule of the Act came into force *inter alia* deleting 'raw cotton, whether ginned or unginned, and cotton seed'.

Mr.K.Jagadishwar Reddy, learned Counsel for the petitioner, has placed strong reliance on a Division Bench judgment of this Court in **Sai Seed Agricultural Farms and another vs. State of A.P. and others**^[1] in support of his submission that

unless cotton seeds are sold for the purpose of extracting edible oil therefrom, the provisions of the Act are not attracted as sale of cotton seeds for agricultural purposes is covered by the Seeds Act, 1966.

The fact that the petitioner was carrying on the business of sale of cotton seeds to farmers is not in dispute. Indeed, the very allegation against the petitioner as could be seen from the show cause notice as well as the confiscation order is that on receiving information that the petitioner was committing certain irregularities in selling cotton seeds to the farmers, the vigilance and enforcement team inspected his shop and confiscated the stocks.

Before undertaking further discussion, it needs to be noted that though the amendment Act 54 of 2006 has deleted 'raw cotton, whether ginned or unginned, and cotton seed' from the Schedule of the Act, food stuffs, including edible oil seeds and oils, are notified as item No.3 under the Schedule. Therefore, if cotton seeds are stored and sold for the purpose of extracting edible oil therefrom, undoubtedly, the provisions of the Act are

attracted.

Now, the point that needs to be decided is whether the provisions of the Act are attracted in respect of cotton seeds, which are sold to farmers for agricultural purpose and not for edible oil purpose.

The above point is no longer a *Res integra*. In **Sai Seed Agricultural Farms** (cited supra), a Division Bench of this Court has examined the identical issue and after a thorough analysis of the provisions of the Act, the Seeds (Control) Order, 1983, which is framed under the Act, and the Seeds Act, 1966, it has summarized the legal position as under:

“In view of what is stated above, it is now clear that while the Essential Commodities Act, 1955 is a general enactment and so also the orders promulgated thereunder including Seeds (Control) Order, 1983, the Seeds Act, 1966 is a special enactment later in time dealing only with the quality of the seeds for agricultural purposes so as to ensure proper quality for germination and consequent yield. A mere glance may lead in confusion that seeds are dealt with by both the enactments, but a closer look eliminates such confusion. While the Essential Commodities Act, 1955, and the Seeds (Control) Order, 1983 framed

therein deal with the seeds, which are fit for human consumption, the authorities under the Seeds Act, 1966 are entitled to interfere and examine only in the case of seeds sold for agricultural purposes and not for edible purposes. We do not want to delve on the facts of this case for the reason that we have to make a scrutiny as to whether in the facts and circumstances of the case, the petitioners' activity falls within the ambit of the Seeds Act, 1966 in view of the principles stated supra. It is needless to mention that if the Special Court comes to the conclusion that the case falls under Seeds (Control) Order, 1983, then the prosecution will be maintainable under Section 3 read with Section 7 of the Essential Commodities Act, 1955 and can proceed further. If the conclusion is that the case falls under the Seeds Act, 1966, then necessarily, the concerned Judicial First Class Magistrate, has to deal with the same. This has to be borne in mind by the Special Court while framing the charges and before that, the above issue has to be decided. The Writ Petitions are disposed of accordingly. No costs."

From the judgment of the Division Bench referred to and extracted above, it is abundantly clear that where the cotton seeds are sold for agricultural purpose, the Act and Seeds (Control) Order, 1983, have no application and no action for

the alleged contravention of the provisions of the Act or the control orders made therein can be initiated. Though the petitioner has raised this aspect in his explanation submitted to the show cause notice, respondent No.2 has failed to advert to and deal with the same.

In view of the settled legal position discussed above, initiation of proceedings under Section 6-B of the Act against the petitioner, by respondent No.2, for the alleged violation of the provisions of the Act and confiscation of a part of the seized stocks are without jurisdiction and, therefore, the impugned order passed by respondent No.2 is quashed.

The Writ Petition is, accordingly, allowed.

As a sequel, WVMP.No.1080 of 2013 in/& WPMP.No.43808 of 2012 are disposed of.

(C.V.Nagarjuna Reddy, J)

Dt: 6th August, 2015

**Note:
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B/o
LUR**

[\[1\]](#) 1997 (5) ALD 809 (DB)