

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.17313 of 2011

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Dated 04th June, 2015

Between:

M/s.Manjunatha Rice Mill

...Petitioner

And

The Tahsildar, Prodduturu Mandal, Kadapa District and others

...Respondents

Counsel for the petitioner: Sri Srinivas Polavarapu

Counsel for the respondents: GP for Civil Supplies (AP)

The Court made the following:

ORDER:

This writ petition is filed for a mandamus to declare the action of respondent No.1 in seizing stocks from the petitioner-mill under panchanama, dated 07.04.2011, and proposing to sell the same under order passed in Reference No.1(2)/1146/2011, dated 19.05.2011, by respondent No.3 as illegal and arbitrary.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies (AP).

The petitioner is a rice mill. It was inspected on 07.04.2011 at 8.30 a.m. by respondent No.1 along with Assistant Supply Officer, Jammalamadugu Division, Enforcement Deputy Tahsildar (CS), Proddatur and Food Inspector, Proddatur. Following the said inspection, certain quantities of paddy and rice were seized on the suspicion that 273 bags of rice loaded in Allwyn Vehicle and 151 bags of rice in Swaraj Tractor were meant for Public Distribution System. The value of the seized stocks is worth Rs.40,21,699/-. Proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') were initiated on the report submitted by respondent No.1.

The petitioner moved respondent No.3 for release of the seized stocks. By proceedings, dated 30.04.2011, respondent No.3 has directed respondent No.1 to take possession of the seized stocks and dispose of the seized PDS rice through Public Distribution System to the cardholders and sell the remaining stocks in open auction in the presence of the Revenue Divisional Officer, Jammalamadugu by

ensuring that the auction will not fetch less than the present market value of the seized stocks. By a separate order passed on 19.05.2011, the learned counsel for the petitioner was informed that the petitioner's request for release of the seized stocks is not agreed to. This communication is assailed in this writ petition.

Respondent No.1 has filed a counter-affidavit, wherein it is *inter alia* stated that in pursuance of the order passed by respondent No.3 for interim disposal, the Public Distribution System rice of 207.60 Qtls was distributed to the cardholders of Proddatur Mandal for the month of June, 2011 and the sum of Rs.41,520/- was remitted into the revenue deposit through separate challans. However, the counter affidavit has been silent on sale of the other seized stocks, namely, Jilakara Masoori Paddy, Jilakara Masoori Rice, Jilakara Masoori Broken Rice and Rice Bran. Therefore, the case was adjourned to today to enable the learned Government Pleader for Civil Supplies to get instructions on this aspect.

Today, at the hearing, the learned Government Pleader, on instructions, submitted that the above-mentioned seized commodities other than PDS rice have not been sold so far in view of pendency of this writ petition.

It is not understandable as to why the respondents have not sold the other commodities in the absence of any interim order passed in this writ petition. The respondents appeared to be oblivious of the legal position that mere pendency of the writ petition would not operate as stay. Non-disposal of the seized commodities for more than four years would have surely caused deterioration in their quality.

Be that as it may, since the proceedings under Section 6-A of the Act are pending, respondent No.3-District Collector is directed to complete the proceedings and pass a final order within two months from the date of receipt of a copy of this order. Till such disposal, the unsold commodities shall not be sold. It is needless to observe that sale of 207.60 Qtls of rice allegedly meant for Public Distribution System shall abide by the result of the proceedings under Section 6-A of the Act.

Subject to the above observations and directions, the writ petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P.No.20806 of 2011 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

04th June, 2015

VGB