

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
WRIT PETITION No.22169 of 2015

ORDER:

Heard learned Counsel for the petitioners and learned Government Pleader for the respondents.

The first petitioner herein is a partnership firm whereas the second petitioner is its Managing Partner. The petitioners are engaged in the business of selling seeds, fertilizers and pesticides. The license issued to them by the authorities is valid till 05.03.2017. While so, on 09.06.2015 respondent Nos.4 to 6 inspected the premises of the first petitioner and a panchanama was conducted by seizing the stock on the ground that the stock registers are not maintained, Certificate of source issued by the seeds company was not made available and there is some variation in the stock. Challenging the said panchanama, the petitioners filed W.P.No.18941 of 2015 and this Court disposed of the said Writ Petition on 26.06.2015 as follows:

“In view thereof, this Writ Petition is disposed of giving liberty to the petitioners to submit explanation with regard to the action of respondents 4 to 6 on indication of contraventions and the evidence available with the petitioners so as to enable the third respondent to pass appropriate orders for release of the detained stock. The third respondent shall consider the representation of the petitioners and pass appropriate orders thereon within a period of one week from the date of receipt of the explanation from the petitioners in view of the urgency involved in the matter.”

After disposal of the Writ Petition, as aforesaid, the learned Counsel for the petitioners submits that the petitioners submitted explanation with the third respondent on 30.06.2015 and without considering the same, the third respondent passed an order on 03.07.2015 directing disposal of some stock out of the seized stock through public auction under the supervision of the Assistant Director of Agriculture, Nagarkurnool, as the commodity was subject to speedy and natural decay. Challenging the said order of disposal dated 03.07.2015

and also the issuance of the show cause notice of even date in pursuance of the proceedings under Section 6A of the Essential Commodities Act, the present Writ Petition is filed.

Learned Counsel for the petitioners submits that had the third respondent took into consideration the explanation submitted by the petitioners on 30.06.2015, the third respondent would not have issued the show cause notice at all and ordered for disposal of some of the seized stock.

The argument of the learned Counsel for the petitioners is based on the ground that the explanation contains all the details of the certificates and stock registers, whose absence was said to be the cause for initiation of 6A proceedings. It may be so. It appears from the sequence of events that the petitioners submitted their explanation on 30.06.2015 and the impugned orders were passed on 03.07.2015. Both the things might have run simultaneously and the present orders could have been passed without looking into the explanation, as there is no evidence of referring to the explanation in the reference of the impugned orders.

Learned Counsel for the petitioners submits that the explanation submitted earlier would be sufficient for the present show cause notice issued on 03.07.2015 also.

In the circumstances, this Writ Petition is disposed of directing the third respondent to consider the explanation said to have been submitted by the petitioners on 30.06.2015, pursuant to the panchanama conducted and disposal of the Writ Petition by this Court on 26.06.2015, and pass appropriate orders pursuant to the present show cause notice dated 03.07.2015. In the meanwhile, the seized stock, which is value of Rs.43,80,355/- shall be released to the petitioners on their furnishing a bank guarantee for a sum of Rs.25.00 lakhs (Rupees twenty five lakhs

only), within a period of two weeks from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

17.07.2015

Note: Issue C.C by 20.07.2015.

B/o.

vs