

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.40356 of 2015

ORDER :

Heard counsel for the petitioner and the Government Pleader for Civil Supplies appearing for respondents.

2. The grievance of the petitioner in this Writ Petition is against the action of the 3rd respondent in seizing stocks of 85.25 quintals of rice, 3.06 quintals of sugar and 30 liters of Kerosene from petitioner's Fair Price Shop pursuant to a panchanama dt.07.12.2015.

3. Counsel for the petitioner contends that the variation as regards the stock of rice is within the permissible limits i.e., less than 1.5 % as stipulated in Clause 24 of the A.P. State Public Distribution System (Control) Order, 2008; as far as kerosene is concerned, there is no variation at all; and with regard to sugar, the variation is minor.

4. The learned Government Pleader for Civil Supplies appearing for respondents does not dispute that the variation of stock in respect of rice is within the permissible limits and there is no variation as regards kerosene.

5. In this view of the matter, seizure of rice (PDS & MDM) as well as kerosene by the 3rd respondent is clearly arbitrary, illegal and violative of Article 14 of the Constitution of India. However, as far as the variation in respect of stock of sugar is concerned, it is not within the permissible limits.

6. Therefore, the Writ Petition is allowed directing the respondents to release seized stock of rice and kerosene from the petitioner's Fair Price Shop pursuant to the panchanama dt.07.12.2015, to the petitioner without insisting on any security; and release the stock of sugar seized under the above panchanama to the petitioner subject to the petitioner furnishing a bank guarantee for its value to the

satisfaction of the 2nd respondent and keeping the said bank guarantee alive during the pendency of proceedings under Section 6A of the Essential Commodities Act, 1955 which shall be initiated and completed within three (03) months from the date of receipt of a copy of this order. However, for seizing the stock of rice and kerosene without any valid reason, the 1st respondent shall first pay costs of Rs.1,000/- to the petitioner within two (02) weeks from the date of receipt of a copy of this order and then recover the same from the Officers, who effected the said seizure.

7. Consequently, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

M.S.RAMACHANDRA RAO, J

15th December, 2015
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