

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.18221 of 2012

Date:02.06.2015

Between:

Chitturi Satynarayana,

S/o Sri Rama Murthy

..... Petitioner

And:

The Deputy Tahsildar,

Mandavalli, Krishna District

and another.

.....Respondents

Counsel for the Petitioner: Sri V.H.V.R.R.Swamy

Counsel for Respondents: GP for Civil Supplies (AP)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside order, dated 27.12.2011, in ECA.No.137 of 2009 on the file of the District Judge, Krishna Division, Machilipatnam and also order, dated

24.08.2009, in ECP.No.64 of 2009 of the District Collector, Krishna at Machilipatnam.

At the outset, it needs to be noted that though the order, dated 24.08.2009, passed by the District Collector, Krishna is questioned along with order, dated 27.12.2011, passed by the District Judge, Krishna at Machilipatnam, the District Collector has not been impleaded as a party. However, this objection is not taken by the respondents in the Writ Petition.

Be that as it may, on the admitted variations between the stock register and the ground stock beyond the permissible limits in respect of BPT paddy, BPT rice, Grade-A rice and boiled rice, the District Collector has ordered confiscation of 10% of the value of the seized stock, viz., 403.38 quintals of BPT paddy and 20.75 quintals of BPT rice besides imposing a penalty of Rs.2,50,000/-. Feeling aggrieved by the said order, the petitioner has availed the remedy of appeal under Section 6-C of the Essential Commodities Act, 1955 (for short 'the Act') before the District Court, Krishna Division, Machilipatnam. The learned District Judge by his judgment, dated 27.12.2011, partly allowed the appeal by confirming the part of the order, whereby the District Collector has confiscated 10% of the value of the seized stock, and reduced the penalty to Rs.1,50,000/- as against Rs.2,50,000/- imposed by the District Collector.

Sri V.H.V.R.R.Swamy, learned counsel for the petitioner, has submitted that even if the order of the District Collector is taken on its face value, it only discloses that it is a case of mere lapse in writing the accounts in time and it is not a case of the petitioner indulging in any clandestine business. He has further submitted that his client will be satisfied if the penalty is further reduced to a reasonable extent.

Learned Government Pleader for Civil Supplies (Andhra Pradesh) has sought to sustain the orders of the District Collector as well as the District Court.

A perusal of the order of the District Collector shows that variations were found in respect of BPT paddy, BPT rice and boiled rice. As regards the BPT paddy, the order of the District Collector itself shows that the same is within the permissible limits. Only in respect of BPT rice and boiled rice, there appeared to be variations beyond the permissible limits. The District Judge in his judgment at para-16 has taken this fact into consideration while reducing the penalty from Rs.2,50,000/- to Rs.1,50,000/-. As rightly pointed out by learned counsel for the petitioner, the case on hand does not appear to relate to clandestine business. This is

reflected from the observations of the District Collector in the following portion of his order:

“The case records are examined. There is a lapse in writing of accounts in time and noting the varieties in “B” register. There was a shortage of Rice and brokens between book balance and ground balance, beyond the permissible limits. Hence, the charges are held proved.”

Having regard to the nature of variations, which appear to be purely technical, I feel inclined to further reduce the penalty from Rs.1,50,000/- to Rs.1,00,000/- while confirming the order of the District Collector to the extent of confiscation of 10% of the seized stock.

In the result, the Writ Petition is partly allowed by modifying the order of the District Court only to the extent of reducing the penalty from Rs.1,50,000/- to Rs.1,00,000/-. The remaining order of the District Court stands confirmed.

As a sequel to disposal of the Writ Petition, interim order, dated 20.06.2012, in WPMP.No.23328 of 2012 is vacated and WPMP.No.23328 of 2012 is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

2nd June, 2015

DR