

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

FRIDAY, THE THIRTEENTH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No.6473 of 2015

BETWEEN

Primary Agricultural Cooperative Society, rep. by its Secretary/Chief Executive Officer

... PETITIONER

AND

The State of Telangana, Rep. by its Principal Secretary (Department of Agriculture), A.P.
Secretariat Building, Hyderabad and others.

...RESPONDENTS

The Court made the following:

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ORDER:

Heard.

2. Petitioner is a Primary Agricultural Cooperative Society, who was granted licence under Fertilizers Control Order, 1985. On the ground that there were certain irregularities noticed in contravention of Fertilizers' Control Order, a show cause notice was given to the petitioner on 03.02.2015 by the Assistant Director of Agriculture, Miryalaguda. By further proceedings of the same authority, dated 06.02.2015, petitioner's licence was suspended for a period of three months. Against the said later order of suspension, petitioner preferred W.P.No.3217 of 2015, wherein this court by order, dated 16.02.2015 granted interim suspension and further directed that petitioner shall not sell the stocks for a period of ten days and during that period, respondents to complete the enquiry and pass final orders. Later, it appears that petitioner did not submit the explanation, whereby the impugned proceedings dated 18.02.2015 are issued by the Assistant Director of Agriculture canceling the licence of the petitioner. Said order of cancellation is questioned in the writ petition.

3. Learned counsel for the petitioner states that on account of communication gap or on erroneous advice, the explanation could not be submitted to the show cause notice. Further, the impugned order shows that without verification of the records, straight away the order of cancellation was passed. Learned counsel would further submit that even if the petitioner did not submit the explanation, the authority ought to verify the records before reaching a conclusion especially when cancellation order is proposed to be passed.

4. It is evident from the impugned order itself that though the cancellation is ordered, petitioner is allowed 30 days time to dispose of the fertilizers held by it. Hence, at the moment, though said order does not affect the petitioner, after expiry of 30 days period petitioner is likely to be affected by the said order. It is, however, also not in dispute that the said order is subject to appeal before the appellate authority and to the extent of default on the part of non submitting the explanation, the appellate authority is required to look into petitioner's explanation as well as the records of the case and then take appropriate decision in the matter.

5. In that view of the matter, the writ petition is disposed of relegating the petitioner to the appellate remedy. However, petitioner shall also have an opportunity to submit detailed explanation along with the said appeal before the appellate authority. The appellate authority shall consider the same along with all other relevant records and then pass appropriate orders. Petitioner is also at liberty to seek such interim relief, as he deems necessary, before the appellate authority.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

March 13, 2015

Note:

Furnish copy by 16.03.2015.

{B/o} **LMV**