

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.28267 OF 2016

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ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the third respondent in seizing the Lorry bearing registration No.AP 24 TA 7518 of the first petitioner and 210 quintals of rice of the second petitioner, as illegal and arbitrary.

2. Heard the learned counsel for the petitioners and the learned Government Pleader for Civil Supplies (Telangana).

3. The first petitioner claims to be the owner of the Lorry bearing registration No.AP 24 TA 7518 and the second petitioner claims to be the owner of 210 quintals of rice seized by the third respondent. A perusal of the record reveals that on 08.08.2016 the third respondent intercepted the Lorry of the first petitioner and the rice of the second petitioner nearby Dammameta Road, Palvancho Town, Khammam District alleging that PDS rice is being loaded in the lorry. It is the case of the petitioners that they are transporting the rice after obtaining necessary bills from Agricultural Market Committee.

4. The contention of the learned Government Pleader for Civil Supplies is that the petitioners are transporting the PDS rice without any authority whatsoever.

5. Whether the petitioners are transporting the rice knowing fully well that it is PDS rice or not will be considered in the proceedings initiated against them under Section 6-A of the Essential Commodities Act, 1955. If this Court gives any finding on that aspect, the same may cause prejudice to one of the parties to the proceedings. If the vehicle along with the seized rice is kept under the custody of the respondents till disposal of Section 6-A proceedings, the same may cause

irreparable loss to the petitioners. So also, if the vehicle along with the seized rice is released unconditionally, it may not be possible for the respondents to take appropriate action against the petitioners in the event of the vehicle being liable for confiscation or fine. It is an admitted fact that Section 6-A proceedings are pending before the second respondent. In view of pendency of Section 6-A proceedings before the second respondent, this Court is not inclined to express any opinion touching the merits of the main case.

6. At the time of arguments, the learned counsel for the petitioners submitted that the second respondent may be directed to release the lorry and rice on furnishing a bank guarantee by the petitioners. The learned Government Pleader for Civil Supplies also consented for the same.

7. Having regard to the facts and circumstances of the case and also the submissions made by learned counsel for both parties, the second respondent is hereby directed to release the Lorry bearing registration No.AP 24 TA 7518 in favour of the first petitioner on his furnishing a bank guarantee for an amount of Rs.4,00,000/- (Rupees Four Lakhs only). The second respondent is further directed to release 210 quintals of rice in favour of the second petitioner on furnishing a bank guarantee for the value of the rice. The first petitioner is directed to give an undertaking that he will not create any third party interest over the vehicle in question, he will not alter the nature of the vehicle till disposal of Section 6-A proceedings pending before the second respondent and that he will produce the same as and when required before the authorities.

8. With the above directions, the Writ Petition is disposed of.
No costs.

9. Consequently, Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. No costs.

T.SUNIL CHOWDARY, J

Date: 23.08.2016
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