

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION NO.31847 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue writ of mandamus declaring the order dated 15.9.2016 in Case No.CS6/290/2016-2 passed by the second respondent as illegal and arbitrary.

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

3. A perusal of the record reveals that on 10.9.2016 at about 12.30 PM, respondent Nos.3 and 4 visited the rice mill of the petitioner and seized 203.00 quintals of rice alleging that the said rice is meant for Public Distribution System. The second respondent initiated proceedings against the petitioner under Section 6-A of the Essential Commodities Act on 15.9.2016. While initiating the proceedings, the second respondent passed the impugned order directing the fifth respondent to dispose of the seized stock through open auction and remit the sale proceeds.

4. The predominant contention of the learned counsel for the petitioner is that the rice seized by respondent Nos.3 and 4 is not meant for PDS. ***Per contra***, learned Government Pleader submitted that the petitioner stocked the PDS rice. Whether the rice in question belongs to PDS or not is a disputed question of fact, which cannot be gone into while exercising the jurisdiction under Article 226 of the Constitution of India.

5. At the time of the arguments, the only relief sought by the learned counsel for the petitioner is that the second respondent may be directed to release the stock i.e., 230.00 quintals of rice in favour of the petitioner. The

learned Government Pleader submitted that if the stock is released unconditionally, it may not be possible for the respondents to take appropriate action against the petitioner in the event the rice is liable for confiscation.

6. Taking into consideration the facts and circumstances of the case and also the submissions made by both the counsel, the second respondent is hereby directed to release 230.00 quintals of seized rice in favour of the petitioner on furnishing bank guarantee for an amount of Rs.4,06,000/-(Rupees four lakhs six thousand only).

7. With the above direction, the writ petition is disposed of. No order as to costs. As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

September 20, 2016
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T.SUNIL CHOWDARY, J

