

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION NO.29926 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue writ of Mandamus declaring the action of the 3rd respondent in seizing the rice and lorry as illegal and arbitrary.

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

3. The 1st petitioner claims that he is the owner of 170 quintals of rice. The 2nd petitioner claims that he is the owner of the lorry bearing Registration No. TN 30 U 7079. A perusal of the record reveals that the 3rd respondent intercepted the lorry along with rice alleging that the 1st petitioner was transporting the P.D.S rice. The rice in question is PDS rice. The case of the 1st petitioner is that he is transporting the rice after obtaining necessary bills from the concerned authority.

4. Whether the petitioner is transporting the rice knowing fully well that it is PDS rice or not will be considered in the proceedings initiated against him 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. The only relief sought for by the petitioner is that the rice and lorry may be released pending enquiry.

5. The learned Government Pleader submitted that if the Court is inclined to release the lorry and rice, the same may be released on furnishing bank guarantee equal to the value of the rice and lorry.

6. If the lorry is kept under the custody of the respondents till disposal of enquiry, the same may cause

untold hardship and financial loss to the petitioner. If the lorry is released unconditionally, it may not be possible for the respondents to take appropriate action against the petitioner in the event of the vehicle being liable for confiscation or fine.

7. Taking into consideration the facts and circumstances of the case, the 2nd respondent is hereby directed to release 170 quintals of rice in favour of the 1st petitioner on his furnishing bank guarantee for a sum of Rs.4,30,882/-. The 2nd respondent is further directed to release the lorry in favour of the 2nd petitioner on his furnishing bank guarantee for a sum of Rs.1,50,000/-. The 2nd petitioner shall also furnish an undertaking that he shall not alienate or alter the nature of the vehicle or create any third party interest over it pending disposal of the enquiry by the competent authority.

8. With the above direction, the writ petition is disposed of. As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

DATED: 06-09-2016.
Hsd

T.SUNIL CHOWDARY, J