

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 10261 of 2016

ORDER:-

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies appearing for the respondents.

The petitioner is doing business in paddy and rice under the name and style "M/s. Sathya Sai Industries". While so, on 04.02.2016, the 3rd respondent along with his staff inspected the business premises of the petitioner and seized 1788.6 quintals of paddy under cover of a seizure report on the ground that the petitioner is indulging in clandestine business in contravention of Clauses 10, 12 and 16 of the A.P. Rice Procurement (Levy) Order, 1984. Basing on the said report, the 2nd respondent issued a show cause notice No.CS6/102/2016 dated 08.03.2016 calling upon the petitioner to submit explanation as to why the seized stock should not be confiscated to Government within seven days. However, on the even date, the 2nd respondent issued proceedings No.CS6/102/2016, dated 08.03.2016, ordering disposal of the seized stock through public auction

and remittance of the sale proceeds in favour of the Government. Questioning the same, the petitioner filed the present writ petition.

Learned counsel for the petitioner submits that the order of sale is contrary to the provisions of the Essential Commodities Act, 1955 (for short 'the Act') and also the notification in S.O.No.3543 (E) dated 29.11.2013 issued by the Ministry of Consumer Affairs, Food and Public Distribution (Department of Consumer Affairs), Government of India, New Delhi, wherein the Government of India is not inclined to grant restrictions on paddy and rice. He further submits that the respondent authorities have no jurisdiction to seize the paddy.

On the other hand, learned Government Pleader for Civil Supplies submits that the 2nd respondent issued a show cause notice and also the proceedings ordering disposal of the seized stock on 08.03.2016 under Section 6-A of the Act, but no explanation is submitted by the petitioner so far. Therefore, the order of sale of seized stock cannot be found fault.

Having considered the submissions, it may be noted that on 08.03.2016 a show cause notice was issued to the petitioner calling for explanation and framing three charges, which reads as follows:

CHARGE:1: That Smt. B. Rajeswaramma, W/o Balachandraiah, Chelimilla Village of Pebbair Mandal, Proprietor of M/s. Sathya Sai Industries failed to maintain separate accounts for CMR and thereby contravened the orders issued vide G.O.Ms.No.18 dt.30.10.2015 and Clauses 10, 12, 16 of A.P.Rice Procurement (Levy) Order, 1984.

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CHARGE:2: That Smt. B. Rajeswaramma, W/o Balachandraiah, Chelimilla Village of Pebbair Mandal, Proprietor of M/s. Sathya Sai Industries has violated Clauses 10, 12, 16 of A.P.Rice Procurement (Levy) Order, 1984 by not maintaining true and correct accounts.

CHARGE:3: That Sri B. Ravi Kumar, second son of Smt. B. Rajeshwaramma, Proprietor of M/s. Sathya Sai Industries, Chelimilla Village of Pebbair Mandal, has abetted the proprietor in non-maintenance of true and correct accounts if CMR separately and thereby violated the orders issued vide G.O.Ms.No.18 dt.30.10.2015 and Clauses 10, 12, 16 of A.P. Rice Procurement (Levy) Order, 1984.

Apart from that, in the said notice itself, the petitioner was given seven days time to submit explanation. But without completion of the stipulated time for submission of explanation by the petitioner, the 2nd respondent issued the impugned proceedings ordering disposal of the seized stock through public auction, which is patently against the very show cause

notice issued by the 2nd respondent. Therefore, the order of sale of seized stock, though termed as an interim measure under Section 6-A of the Act, is unsustainable and exercise of such power in an arbitrary manner deserves to be interfered with.

Accordingly, the Writ Petition is allowed and the proceedings No.CS6/102/2016, dated 08.03.2016, issued by the 2nd respondent ordering disposal of the seized stock through public auction and remittance of the sale proceeds in favour of the Government, are set aside.

At this stage, it is submitted by the learned counsel for the petitioner that though an opportunity of hearing was given to the petitioner on 26.03.2016, the same did not take place on that day, as the 2nd respondent had adjourned the matter. But, the next date of hearing has not yet been intimated to the petitioner. Inasmuch as the hearing has not taken place on 26.03.2016, the petitioner is given liberty to submit her explanation. On submission of such explanation, the 2nd respondent shall consider the same and pass appropriate orders, in accordance with law.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. There

shall be no order as to costs.

**CHALLA KODANDA RAM,
J**

30th March, 2016

Note: Furnish C.C. in four days.

(b/o)

cbs

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