

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Revision Case No.25 OF 2017

ORDER:

The revision petitioner maintained the revision, impugning the order in CrI.A.No.440 of 2014 dated 18.12.2015 passed by the District and Sessions Judge, Rajahmundry, East Godavari, confirming the 20% confiscation order of the Joint Collector-cum-Addl.District Magistrate, Kakinada, in 6-A Case No.V10/ CS/ 347/ 2014 dt.15.09.2014 under Section 6-A of the Essential Commodities Act, 1955(for short, 'the E.C.Act').

2.The contentions in the grounds of revision vis-à-vis the oral submissions of the learned counsel for the petitioner are that the order of the learned District Collector is illegal and arbitrary, that the stocks were seized mere on the minor variations and technicalities, that the appellate Court failed to see that by the time of inspection at 10.00 A.M., it is not possible for the clerk to complete the work of receipts of stocks and sales by deducting the same from stock register, that the trial Court failed to see that he has not violated any control orders and not doing any clandestine business, that the seeds and the fertilizers in the shop are brought from the repudiated companies and not any substandard materials and at the time of inspection nothing has been found against the petitioner with regard to the business operations or the maintenance of records or any other violations under the conditions of license of anything. In fact, the entire report shows that the samples are drawn and sent to the laboratories for verification. When there is no violation either under the Fertilizer Control Order 1985 or the Seeds Act, 1988 or under the E.C.Act, 1955, the present case under 6-A has no basis at all from the perusal of the mediators report. It is also the contention

during hearing that there is no essential commodity involved to initiate Sec.6-A of the E.C.Act, proceedings even otherwise. Hence, to set aside the orders of the learned District Judge and Joint Collector.

3. From perusal of the material, the learned Joint Collector ordered for 20% confiscation of the stocks seized holding that the petitioner stored the fertilizers in an unauthorized godown without including the same in the license. Further the above variations were noticed due to non-maintenance of records therefrom violated the Clauses 5 and 35(1) of Fertilizer(Control) Order 1985.

4. When the petitioner impugned the order of the learned Joint Collector, before the learned Sessions Judge, in the appeal supra, the same was dismissed confirming the order of the learned Joint Collector holding that the petitioner not entered the ground stock of 5 items in any register and even not maintained any stock register for the stocks in the premises for which no reason was assigned. Since the petitioner failed to issue cash memorandum to purchasers in Form-M as and when the stock delivered, the variation occurred and held that the learned Joint Collector, rightly observed in the order.

5. The learned Public Prosecutor representing the respondent-State supported the impugned orders of the Court below and sought for dismissal of the revision saying there is no illegality and impropriety or incorrectness to interfere, within the limited scope of law by sitting in revision.

6. Heard and perused the material on record.

7. In deciding the revision lis, the brief facts of the case relevant to refer are that the Regional Vigilance and Enforcement Department and the Mandal Agricultural Officer, Gollaprolu in the course of inspection on

21.06.2014 at 10.00 A.M., of the premises of the petitioner-proprietor of M/s Sri Aiswaryambhika Agencies situated at D.No.14-124 Gollaprolu, East Godavari District, and found that there was no stock register for fertilizer and also noticed that stock was positioned in D.No.14-124 and in the two sheds opposite to the shop behind the D.No.14-78. Those two sheds have not contained any door number and not included in the Fertilizers license, thus violated the clauses 5 and 35(1) Fertilizer (Control) Order 1985 r/w 6-A of the E.C.Act. Then they booked 6-A case against the petitioner and seized the fertilizers of the value of Rs.4,55,235/-.

8. Admittedly, there is no stock register for the fertilizers, though otherwise bound to maintain as per one of the conditions of the license given under the Control Order. It is not even a case of the Fertilizer Control Order 1985, though it no way speaks the fertilizers are not essential commodity. There is nothing even shown any subsequent Order to the 1985 Order if at all exempting the fertilizers from the E.C.Act. to the extent the Section 6-A proceedings initiated under the E.C.Act by the learned District Collector. The license obtained is for one premises whereas the stock kept is in another premises but there is no modified license much less extending to the other premises even which is nothing but a clandestine dealing of the essential commodity in giving finding by the impugned order of the learned Collector supra. Thus, there is nothing shown of illegality or irregularity and there is no basis even to the contention of the no violation of the Fertilizer Control Order, 1985 or the provisions of the Seeds Act, there is nothing to question the 6A proceedings.

9. Coming to the extent of confiscation of 20% of the seized stock is concerned, the stock seized for the entire variation from no book

balance and what is found in the ground balance is the variation of the fertilizers in question. Having regard to the above, there is nothing to interfere with the impugned order but for from the fairness in admission of no register maintained and not of much acquainted of the process, this Court feels it just to reduce confiscation from 20%to 15% of the seized stock or the value.

10. In the result, the revision is disposed of by modifying the confiscation order of the Joint Collector and its confirmation by the learned District Judge, of the seized stock from 20%to 15%

Consequently, miscellaneous petitions, if any, pending in this revision, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:24.04.2017

Vvr

