**HON'BLE DR. JUSTICE B. SIVA SANKARA RAO**

**WRIT PETITION Nos.17559, 17561, 17509 & 17610 of 2017**

**COMMON ORDER:**

All the 4 writ petitions involving the common issue, but for any little difference in facts mentioned in the respective supporting affidavits other than for the prayers in same line, thereby, at the request of both sides, taken up together for common disposal.

2. Heard learned counsel for the respective writ petitioners and the learned Government Pleader for Cooperation representing the selfsame respondents in all the writ petitions.

3. The prayer in these writ petitions, in nut-shell, is to set aside the proceedings issued by the Joint Director of Agriculture, suspending the licences of the respective petitioners, either indefinitely or for a particular period, as the case may be viz., in W.P.No.17559 of 2017 vide proceedings in Rc.No.C3/287/2016, dated 10.04.2017 & 23.04.2017 suspending the licence of Chowdavarapu Gopal Seeds & General Merchants, rep. by its proprietor Ch.Gopal, Jaggaiahpeta (for short 'Chowdavarapu Seeds') initially for 15 days, which was extended until further orders; in W.P.No.17561 of 2017 vide proceedings in Rc.No.C3/287/2016, dated 30.03.2017 & 13.04.2017, suspending the licence of Devi Seeds, rep. by its proprietor D. Nataraju, Nandigama (for short 'Devi Seeds') initially for 15 days, which was extended until further orders; in W.P.No.17509 of 2017 vide proceedings in Rc.No.C3/287/2016, dated 06.04.2017 & 20.04.2017, suspending the licence of M/s. Sri Durga Manures

and Seeds, rep. by its proprietor G.Pulla Rao, Tiruvuru (for short 'Durga Seeds') initially for 15 days, which was extended until further orders and in W.P.No.17610 of 2017 vide proceedings in Rc.No.C3/287/2016 dated 30.03.2017 & 13.04.2017, suspending the licence of M/s. Vutukuru Sri Krishnaraya PACS Limited, rep. by its CEO, at present (for short 'Vutukuru Society') initially for 15 days, which was extended until further orders, all pertaining to Krishna District.

4. The averments in support of the respective writ petitions from the respective affidavits, in nutshell, are that, despite the licences issued by the respondents from time to time in Form-C are in force, including by renewal or leave about the applications for renewal pending further, if any, under the Seeds Act, 1966 and the Rules made thereunder of 1968, including the Rules framed as Seeds Control Order, 1983, there were show cause notices served on the petitioners, namely are:

4(a). That Chowdavarapu Seeds was served with a show cause notice dated 24.03.2017 stating that certain seeds of hybrid chilli, damini variety sold to certain farmers and on complaint by the said farmers, the District Level Committee inspected their fields and found that the seeds samples were not conforming to the minimum standards in respect of genetic purity and called upon to show cause, as to why action shall not be initiated, within 7 days and even reply dated 06.04.2017 submitted stating that the producer of chilli seeds hybrid damini variety is M/s. Sankalp Seeds Private Limited, Jalna (for short 'Sankalp Seeds) and that the petitioner got the seeds of said

reputed company through its distributor M/s. Devi Seeds, Nandigama, in a sealed container and being a retailer, the petitioner has nothing to do with the genetic purity of said seeds that were sold and hence no action is warranted against it, however, the 3rd respondent passed impugned order supra stating that the said explanation is not satisfactory and suspended the licence for 15 days, which was extended until further orders later, as per Clause 15 of Control Order, for contravention of Clause 8(a) of the Order read with Sections 6 & 7 of the Seeds Act.

4(b). That Devi Seeds was served with 5 different show cause notices dated 20.02.2017, 24.03.2017 & 31.03.2017 (3 in number) stating that the seeds of hybrid chilli, damini variety sold by the petitioner to other dealers were purchased by certain farmers and on complaint by farmers, the District Level Committee inspected their fields and found that the seeds samples were not in conformity with the minimum standards in respect of genetic purity and to show cause within 3 days, and replies submitted separately for the respective notices, saying that the producer of chilli seeds hybrid damini variety is M/s. Sankalp Seeds and the petitioner purchased the seeds from the said company in a sealed container and being a distributor, the petitioner has nothing to do with the genetic purity of the said seeds that were sold to the dealers, who in turn, sold to the farmers and no action is warranted against it, however, the 3rd respondent passed impugned order supra, stating that the said explanation is not satisfactory and suspended the licence for 15 days, which was extended until further orders later, as per Clause

15 of Control Order for contravention of Clause 8(a) of the Order read with Sections 6 & 7 of the Seeds Act.

4(c). That Durga Seeds was served with a show cause notice dated 31.03.2017, stating that the farmers complained about the quality of chilli hybrid damini Lot 10529 produced by M/s. Sankalp Seeds and sold by Devi Seeds, Nandigama, that the averments complained are that the said seeds sown are inferior quality and the same contravenes Clause 15 of the Seeds Control Order and Section 6 of the Act and hence called upon to show cause and the reply has been given on 04.04.2017 stating that the said damini variety seeds were purchased from Devi Seeds on 06.04.2016 and that the petitioner is not aware of the defects in the seeds and if at all there is any defect, it is the producer of the seeds alone is responsible for any sub-standard quality and the same chilli seeds sold earlier gave good yield and the present sales were made at the request of the farmers and these are neither dishonest nor deliberate sales made, but bonafide and hence not liable for any action, however, stating that the said explanation is not satisfactory, the 3rd respondent vide the impugned orders suspended the licence for 15 days, which was extended until further orders, stating as contravention of Clause 8(a) of the Order read with Sections 6 & 7 of the Act.

4(d). That Vutukuru Society was served with a show cause notice dated 20.02.2017 alleging that the Lot 10527 of hybrid damini chilli purchased by farmers from its shop found to be sub-standard and hence called upon to show cause and that the petitioner submitted explanation on 06.03.2017 stating that the

society is not the producer of seeds, but for M/s. Sankalp Seeds, from whom the distributor Devi Seeds, Nandigama, purchased and from the distributor, the petitioner purchased and sold in a sealed container, however, stating that the said explanation is not satisfactory, the 3rd respondent passed the impugned orders suspending the licence for 15 days, which was extended until further orders, stating that the same is in contravention of Clause 8(a) of the Order read with Sections 6 & 7 of the Act.

5. The averments in the respective writ petitions further show that, impugning the said suspension orders, initially for 15 days, which was extended until further orders, as untenable and illegal, in seeking to set aside the same as contrary to law are that the petitioners are doing the business with reputation bonafidely and are not liable for any suspension of licence, for they did not violate any of the licence conditions or Seeds Control Order or the Act. It is contended that Rule 23-A of the Seeds Rules 1968 deals with that action to be taken by the Seed Inspector, if a complaint is lodged with him in writing, that failure of crop is due to any defective quality of seeds of any notified kind or variety supplied and the Seed Inspector shall take in his possession the marks or labels, that the seed containers and a sample of unused seeds to the extent possible from the complainant for establishing the source of supply of seeds and investigate the causes for failure of the crop by sending the samples of the Lot to the Seeds Analyst for analysis at the State Seed Testing Laboratory and thereupon submit his report along with findings to the competent authority, wherein the Seeds Inspector comes to the conclusion that the failure of the crop is due to inferior quality of the seeds supplied

to the farmer, being less than the minimum standards notified by the Central Government, and recommended to launch proceedings against the supplier for such contravention of the Act or the Rules, that once the Control Order empowers the Inspector to draw the samples of the seeds by entering upon and by search of any premises, where the seeds are stored for sale and sent the same to the laboratory by following the procedure laid down under the Act and the Control Orders, that too, after giving a reasonable opportunity of being heard on finding of such contravention of the Act or the provisions of the Control Order, then only to suspend or cancel the licence of a dealer and in the case on hand, there is no inspection by the Seeds Inspector nor there is any drawing of samples from any premises of the petitioner and there is no basis, even for the farmers, to complain against the petitioners and any District Level Committee inspection of the fields of the farmers, physically even, cannot be a ground to issue show cause notice directly or to pass any orders of suspension, which are contrary to the provisions of the Act and the Control Orders and the procedure established by law and thereby the respective impugned orders are without jurisdiction and liable to be set aside.

6. The contentions in the respective counter affidavits filed by the 3rd respondent, on behalf of the respondents, are that it is based on the District Level Committee report, after conducting field inspection from the complaints of the farmers of the respective Mandals, stating that they purchased the seeds, by which all the crop was damaged, that Clause 8(a) of the Seeds Control Order speaks that every dealer of seeds in notified kind or

variety or other than notified kind or variety of seeds shall ensure that the standards of quality of seeds claimed by him shall conform to the standards prescribed for the notified kind or variety of seeds, under Section 6 of the Act, which deals with the minimum limits of germination and purity and in view of the contravention of the same under Sections 6(a) and 7(b) of the Act and Clause 8(a) of the Control Order, the action of suspension of licence was initiated, which is followed by a show cause notice and on receiving reply from same not meted out any answer and though, initially the suspension of licence is for 15 days period of the respective petitioners, from the District Level Compensation Committee meeting not convened on the proposed date i.e., on 21.04.2017, due to transfer of its Chairman, it was proposed to held on 28.04.2017, thereby the suspension of order for 15 days was extended until further orders and that the District Level Committee, in its meeting held on 28.04.2017, passed award on the seed producer company M/s. Sankalpa Seeds, Jalna, to pay compensation of respective amounts, in each of the respective cases, to the farmers within 60 days, which expires by 27.06.2017 and that the compensation has not been paid by the company to the farmers, as per the initial undertaking, and hence the extension of the suspension order until further orders from the original 15 days period holds good and, if the compensation is paid by the company, the suspension orders will be revoked, to save the victim farmers and to make good the loss suffered from the spurious seeds. It is the further submission that on the complaint of farmers that the seeds supplied were impure and they raised the crop that was damaged therefrom, the 3rd

respondent addressed the Director of Research, Dr.YSR Horticulture University, Tadepalligudem, to nominate a Scientist to inspect the respective farmers' fields and after getting nomination of Scientist, the District Level Inspection Team, comprising of Officers of Agriculture Department from the Office of Joint Director of Agriculture, Krishna, Jurisdictional Assistant Director of Agriculture and the Jurisdictional Mandal Agricultural Officer and Officers of Horticulture, and that the nominated Scientists, having inspected and submitted report stating that there was no similarity between varietal characters observed and with varietal characters given by the company and the fruits observed were light green, slender, medium in size as against the dark green, long and slender as per the varietal characters given by the company, as the genuineness of the said hybrid under complaint has to be answered by the breeders of the concerned company and due to supply of genetically impure seed to the farmers, who purchased the same from the petitioners, and as the farmers sustained loss financially, the action was initiated against the petitioners from the District Level Committee report, after show cause notices served and thus drawl of samples does not arise, since genetic purity of seeds supplied were observed by the District Level Inspection Team, as referred supra are genetically impure that were sold to the farmers and the contention of the petitioners of no report furnished nor particulars disclosed in the notice, thereby renders baseless and their contention of not violating or contravening any of the provisions of Control Order or the Rules or the provisions of the Act is incorrect and thereby the writ petitions are liable to be

dismissed. The material furnished with the said counter shows about nomination of District Level Committee and the decision taken for compensation payable to the farmers by the District Level Committee.

7. In fact, when the fact that the petitioners in the respective writ petitions are licencees and their licences are in force and they disclosed the identity of the seeds, which they purchased from the distributor, who in turn purchased from the manufacturing company, that too in sealed containers, which they sold, is not in dispute, in showing the petitioners are doing the business bonafidely in the sale of the seeds of the company through the distributor in retail to the farmers, that too, at the request of the farmers, if not, even otherwise, from their say as per the specifications in the sealed containers of the quality, it is unknown, how the petitioners are liable to be suffered and their licences are to be cancelled and when the producer of the seeds was identified even finding that the seeds are impure, from the said report of the complaints and visit by the District Level Compensation Committee investigation report, from any samples with the farmers in the comparison with the product in the fields and not tallying with the specifications in the sealed containers purchased by the farmers, but for the manufacturing company, against whom the District Level Compensation Committee already taken a decision to award the compensation. It is not even a case to direct, if at all the distribution of any amount due to the manufacturing company, not to pay and in turn to pay to the District Level Committee to distribute the same to the farmers, much less anything to make liable even the licencees/dealers in

retail, who purchased from the distributor, thereby the suspension of licences of the petitioners is basically unsustainable and, that too, once the licence is suspended, as a so called punitive measure for 15 days not even mentioned as pending any enquiry or subject to further extension, if any, that was the final order and once the same is not challenged even and supplied by submitting to the same by the respective petitioners, there is no jurisdiction to the respondents to say the same as if an interim order or not a final order or to extend further, that too indefinitely, and until further orders, that too, only ruse that can be continued to suffer them for no fault on their part, as under the guise of the amount to be recovered from the manufacturing company, though the process for recovery against the manufacturer is otherwise and in this regard there is no role of the petitioners anything worth to say. It is made clear that once the suspension order is unsustainable for the reasons stated supra, the contention of if at all aggrieved, there is a remedy of appeal under Clause 16 of the Control Order to impugn the suspension orders and the Writ Petitions are not maintainable, is also negated as unsustainable for same is outcome of violation of the provisions as referred supra.

8. Having regard to the above and in the result, the impugned orders suspending the licences of the petitioners in the respective writ petitions are set aside by allowing the Writ Petitions and the respondents are directed not to prohibit the dealing of the petitioners with the seeds business pursuant to the licence, otherwise in force, for the period of licence granted, but

for if at all any further recourse to take under due process of law for any other cause other than the subject cause respectively.

Consequently, miscellaneous petitions, if any, shall stand closed. No costs.

**JUSTICE Dr. B.SIVA SANKARA RAO**

Date: 15.06.2017
Note: Issue C.C. by 19.06.2017
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