

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.23583 OF 2009

ORDER:

Heard Sri A. Prabhakar Rao, Learned Counsel for the petitioner and the Learned Government Pleader for Civil Supplies appearing on behalf of the respondents.

The proceedings under challenge in this Writ Petition is the memo dated 13.08.2009 whereby the petitioner's application for grant of foodgrains licence was rejected by the District Supply Officer, Ranga Reddy District. The petitioner obtained a licence from the District Supply Officer, Hyderabad for carrying on business at Kachiguda. It is their case that they opened a second godown in Bandlaguda in Ranga Reddy District, and they had submitted an application on 17.07.2009 enclosing thereto two challans for Rs.1500/- and Rs.900/-. Reference is made to the note below clause 2(b) of Form B, which is the licence for purchase, sale/storage for sale of Schedule Commodities. The note stipulates that, if the licensee intends storing his Scheduled Commodities in places other than those specified in the licence, he shall apply to the licensing authority, producing the licence for making requisite changes therein by the licensing authority. The licensing authority is required to issue permission within 48 hours from the time of receipt of such application for occupying the new godowns. If such permission is not received by the applicant within the said time, it is required to be deemed that the applicant has been permitted to occupy the new godowns.

Sri A. Prabhakar Rao, Learned Counsel for the petitioner, would submit that, since an inspection was caused on 12.08.2009 more than a month after the petitioner had submitted an application for inclusion of their godown in the licence, the note below para 2(b) of Form- B creates a legal fiction, and the petitioner must be held to have been granted permission for utilizing the said godown.

On inspection, the godown was found to contain 1480.05 quintals of red-gram. Learned Government Pleader for Civil Supplies would point out that, even in a licenced godown, (other than in the twin cities of Hyderabad and Secunderabad), the maximum quantity which can be stored therein is only 1000 quintals, and the petitioner had illegally stored 1480.05 quintals thereat. While fairly stating that the petitioner could not have stored 1480.05 quintals in the said godown, Sri A. Prabhakar Rao, Learned Counsel for the petitioner, would however contend that, since the permissible limit is 1000 quintals, any action which the respondent could have taken was only for the excess quantity of 480.05 quintals, and not for the entire quantity of 1480.05 quintals. As Sri A. Prabhakar Rao, Learned Counsel for the petitioner, has fairly conceded that the respondents were justified in seizing 480.05 quintals of red-gram, the only question which this Court is required to examine in these proceedings is the validity of the action of the respondents in seizing the remaining 1000 quintals of red-gram from the godown in Banglaguda.

Learned Government Pleader for Civil Supplies would submit that the licensing authority is the District Supply Officer in the District; the power to grant a licence vests only in the District Supply Officer; the note below para 2(b) of Form B is for inclusion of a godown in the existing licence; an application, for such inclusion, could only have

been made before the District Supply Officer, Hyderabad; what the petitioner had sought before the District Supply Officer, Ranga Reddy District is, in effect, for grant of a fresh licence; therefore, the note below clause 2(b) of Form B has no application; and it is para 3 and 6 of the Andhra Pradesh Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008 which is attracted.

While the submission of the Learned Government Pleader for Civil Supplies cannot be said to be without merit, the fact remains that this is not the ground on which the impugned memo was issued. Suffice it, therefore, if the impugned memo is set aside, and the District Supply Officer, Ranga Reddy is permitted to pass an order afresh on the petitioner's entitlement for inclusion of the godown at Bandlaguda in the licence issued by the District Supply Officer, Hyderabad. The entire exercise, culminating in a fresh order being passed, shall be completed within a period of two months from the date of receipt of a copy of this order. While the respondents may proceed, and take action against the petitioner, for the excess quantity of 480.05 quintals of red-gram, they shall not take any coercive action against them with regards the remaining quantity of 1000 quintals of red-gram till a fresh order is passed. The Bank guarantee furnished by the petitioner shall be kept alive during the pendency of proceedings before the District Supply Officer, Ranga Reddy (Medchel). The Writ Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Date: 27.01.2017

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