

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.2509 of 2017

ORDER:

Heard Sri S.Niranjan Reddy, learned Senior counsel, for learned advocate on record for the petitioners, and the learned Government Pleader for Agriculture for respondents.

This Writ Petition is filed under Article 226 of the Constitution of India seeking the following reliefs:

“ a. Call for the records pertaining to seizure of the stocks and register lying at the Petitioner No.1's premises at Door No.4-1-12, Abbireddy Vari Street, Amalapuram-533201 by the Respondent No.2 and upon perusal of the same, issue a writ certiorari or any other appropriate writ, order or direction to quash the seizure memo dated 02-01-2017 issued by the Respondent No.2 in Form XIX of the Act (**Annexure-P1 Colly.**) and further be pleased to direct the Respondent No.2 to release the entire stock, sales register etc. seized from the Petitioner No.1's aforesaid premises forthwith;

b. To issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents to treat the License No.123/2014 issued to the Petitioner No.1 in respect of premises at Door No.4-1-12, Abbireddy Vari Street, Amalapuram-533201 as valid and subsisting or, in the alternative, to quash the alleged order no.QC.3/1161/2016 dated 24-09-2016 purported to have been passed by Respondent No.3 cancelling the said License No.123/2014 issued to the Petitioner No.1 as and when produced;

c. To pass such other/further orders as may be deemed just and proper in the facts and circumstances of the case.”

Earlier, the petitioners herein approached this Court by way of filing Writ Petition No.39326 of 2016 praying for the following reliefs:

“a. To quash the decision taken by the Respondent No.2 vide the minutes of its meetings dated 21-09-2016 whereby, the Respondent No.2 rejected the technical bid of the Petitioner forming part of its bid for supply of the bio-pesticides Azadirachtin 3000 ppm and 1500 ppm respectively under tender No.AGROS/HO/ARSK/SHORT EOI/2016-17 dated 15-06-2016 issued by the Respondent No.2.

b. To quash the circular/Memo No.NFSM/19/2016 dated 08-11-2016 issued by the Director of Agriculture, Andhra Pradesh and letter Ref.No.HO/ARSK/Corresp. With RMs/16-17 dated 22-09-2016 issued by the General Manager of Respondent No.2, pursuant to the illegal and arbitrary decision taken by the Respondent No.2 vide the minutes of its meetings dated 21-09-2016.

c. To direct the Respondent No.2 to open the price bid of the Petitioner and to empanel the Petitioner in the panel of approved suppliers of the said Products on the same terms and conditions as other bidders in terms of the said Tender and/or afford equal treatment to the Petitioner's bid as given to the Respondent Nos.3 to 5.”

In the said writ petition, this Court on 19.12.2016 passed an interim order, operative portion of which, reads as under:

“ After perusing the material available on record and to find out the veracity in the assertions of petitioner, which, if found are correct, would help the farmers to get the right product, the Court considers it appropriate to direct the Insecticide Inspector/Mandal Agricultural Officer, Amalapuram, East Godavari District to collect three legal samples from Biotech International Ltd. Door No.4-1-12, Abbireddyvari Street, Amalapuram-

533201, one for analysis by the Central Laboratory, second sample be handed over to petitioner for getting analysis report from recognized lab and the last sample is preserved for further analysis by a lab as may be necessary. The Officer, who collects the samples, it is needless to observe, is required to follow the procedures under the Insecticides Act, 1968 Act and files the report received from the lab. Since the sample reports are at the instance of petitioner, the petitioner is directed to deposited a sum of Rs.15,000/- (Rupees fifteen thousand only) with 1st respondent for undertaking and completing the exercise directed by this Court through this order.”

In pursuance to the above said order, samples were taken on 02.01.2017 from the subject premises. According to the petitioners, simultaneously the stocks were also seized by the respondents on the ground that permission for the licensed premises was cancelled.

It is the submission of the learned senior counsel that without giving any show cause notice and without giving any opportunity of being heard to the petitioners, the respondent authorities cancelled the license.

It is evident from the material available on record that on 04.01.2017, petitioners herein submitted a representation to respondents and the Commissioner & Director for Agriculture stating that the alleged cancellation order was not communicated to the petitioners nor they received any show cause notice before cancellation of the license and that no opportunity was given to them before proposed cancellation. The Insecticide Inspector & Assistant Director of Agriculture vide letter No.A/81/2016 dated

11.01.2017 informed the petitioners that since the license was cancelled, the action was initiated under the provisions of Insecticides Act, 1968, and the Rules framed thereunder. The said letter also states that when the authorized representative of the petitioners visited the office of the Assistant Director of Agriculture, a request was made to receive a copy of the cancellation order of Pesticide license, but he refused to receive the same.

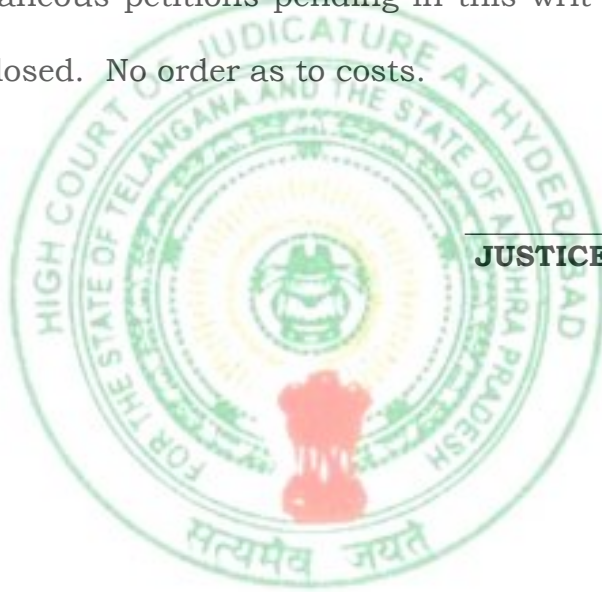
Initially, this writ petition came up before this Court on 25.01.2017 and on the request made by the learned Government Pleader, this Court adjourned the matter by one week so as to enable him to get necessary instructions from the respondent authorities. Today, when the matter is taken up, copies of show cause notice bearing No.QC3/1161/2016 dated 21.09.2016 and cancellation order of Pesticide License bearing No.AC.3/1161/2016 dated 24.09.2016 are placed on record by the learned Government Pleader. But the said notice and the proceedings do not indicate as to whether the same were served on the petitioners or not. There is also no evidence on record to substantiate the stand as regards the service of the same on the petitioners. It is also evident from a reading of the cancellation order of Pesticide License dated 24.09.2016 that the said order is completely bereft of any reasons and is a non-speaking order. Therefore, on this ground alone the said order of cancellation is liable to be set aside.

For the aforesaid reasons, the Writ Petition is allowed by setting aside the cancellation order of Pesticide License passed by the Joint Director of Agriculture, Kakinada, vide Proceedings No.QC.3/1161/2016 dated 24.09.2016. However, this order will

not preclude the respondents to proceed further in accordance with law. It is made clear that it is open for the petitioners herein to submit their explanation to the show cause notice dated 21.09.2016 within a period of two weeks from the date of receipt of a copy of this order and if such an explanation is submitted by the petitioners within the time stipulated above, the same shall be considered and appropriate orders shall be passed by the respondents after giving an opportunity of hearing to the petitioners herein.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed. No order as to costs.

01.02.2017
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JUSTICE A.V.SESHA SAI