

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.C.No.178 of 2016

ORDER:

This Contempt Case has been filed alleging willful disobedience with the order dt.14-12-2015 in W.P.M.P.No.51801 of 2015 in W.P.No.40133 of 2015.

2. The petitioner is a proprietor of a rice mill by name Parameswara Binny Rice Mill in Parvathagiri, Parvathagiri Mandal, Warangal District. The petitioner holds a licence under the Andhra Pradesh Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008.

3. On 21-07-2015, there was an inspection by the Deputy Tahsildar (Civil Supplies), Wardhannapet of the petitioner's rice mill and there was seizure of stock alleging violations of conditions of licence. A case under Section 6A of the Essential Commodities Act, 1955 was registered against him. An order was passed on 06-12-2015 under Section 6A confiscating 50% of the stock as penalty.

4. A criminal complaint in FIR No.142 of 2015 under Section 420, 406 IPC and Section 7 of the said Act was also registered before the Parvathagiri Police Station.

5. The State of Telangana had issued the Telangana Rice (Custom Milling) Order, 2015 vide G.O.Ms.No.18 dt.30-10-2015 prohibiting the rice millers from taking any custom milling of paddy other than through Government Agencies or State Corporations except

with the permission of the District Collector or the District Supply Officer vide clause 6 of the said order.

W.P.No.40133 of 2015

6. Petitioner contended that his rice mill was not allotted any quota in 2015-16, while all others in the area were given the orders under the Telangana Rice (Custom Milling) Order, 2015 (for short 'the 2015 order'), and that when he enquired from the District Supply Officer, Warangal District, Warangal, he was informed that this was because he was allegedly involved in the criminal case under Section 7A registered which was pending against him.

7. Petitioner alleged that at least 40% to 50% of the rice mills in the area have such criminal cases under Section 7A which were pending and that cannot be a reason for debarring the petitioner/blacklisting the petitioner without any notice or opportunity.

8. Petitioner therefore filed W.P.No.40133 of 2015 challenging the action of the respondents therein from debarring or blacklisting him from custom milling under the above 2015 order without giving any notice or opportunity or passing any order. He sought a direction to the respondents therein to allocate and deliver paddy to the petitioner's rice mil for custom milling. He also filed W.P.M.P.No.51801 of 2015 for a direction to the respondents to allocate and deliver paddy to petitioner's rice mill for custom milling under the 2015 order.

INTERIM ORDER DT.14.12.2015 IN W.P.M.P.No.51801 of 2015

9. On 14-12-2015, this Court heard the learned counsel for the petitioner, learned Government Pleader for Civil Supplies for respondent Nos.1 to 4 and Sri A.Jagan, learned Standing Counsel for respondent Nos.2 and 3 and granted in W.P.M.P.No.51801 of 2015 an interim direction directing them to allocate and deliver paddy to the petitioner's rice mill pending disposal of the Writ Petition.

10. This order was passed overruling the objection of the respondents for grant of interim order by stating that a case under Section 6A and a criminal case under Section 7A were registered against the petitioner and also taking notice of the order dt.17-11-2015 passed by the then Joint Collector, Warangal confiscating 50% of the stocks seized from the petitioner in favour of the State Government. The Court was of the opinion that merely because the petitioner was involved in a case filed under Section 6A or a criminal case was filed under Section 7A, that cannot be a ground to blacklist him, that no notice or opportunity had been given to the petitioner before blacklisting or debarring from receiving custom milling paddy and this was violation of principles of natural justice.

ORDER DT.13.2.2017 IN WVMP NO.158 AND 607 OF 2016

11. W.V.M.P.Nos.158 and 607 of 2016 were filed to vacate this order. But the same were dismissed on 13-02-2017.

THE CC NO.178 OF 2016

12. Petitioner has filed this Contempt Case alleging that in spite of the said interim order dt.14-12-2015 in W.P.M.P.No.51801 of 2015 in W.P.No.40133 of 2015 which was dispatched on 16-12-2015 by this Court, till 19-01-2016, the date when the Contempt Case was filed, no paddy had been allotted to his rice mill and this violates the order passed by this Court. He further alleged that on 20-12-2015, 4th respondent issued a notice why petitioner's rice mill should not be blacklisted and seeking petitioner's explanation within five days; another notice was also issued by 4th respondent asking the petitioner to appear on 07-01-2016 in the office of the Joint Collector, Warangal and submit explanation why petitioner shall not be blacklisted; and that this itself is contrary to the interim order granted by this Court and interferes with the administration of justice.

13. An application No.87 of 2016 was filed to implead Joint Collector, Civil Supplies, Warangal as 5th respondent in the Contempt Case and the same was ordered on 29-01-2016 since it was specifically alleged that on the instructions of the Joint Collector, Civil Supplies, Warangal District, Warangal, the interim order passed by this Court was not being complied with.

14. Thereafter, the matter under went adjournments on 01-07-2016, 08-07-2016, 04-11-2016, 14-11-2016, 22-12-2016, 30-12-2016 and 10-02-2017 and it was being listed along with the Writ Petition.

15. In the Writ Petition, the 5th respondent had filed a counter that by the time he received interim orders of this Court, allotment of custom milling paddy to Parvathagiri Mandal where petitioner's rice mill is located was completed.

16. After considering the said plea, this Court felt that even if Kharif season might have ended by 14-12-2015 (the date when the interim order was granted by this Court) , since Rabi season would not have been ended, it would have barely commenced by then, and since no reason is assigned for not implementing interim order passed by this Court on 14-12-2015 for the Rabi season, notice in Form-I was issued to respondent Nos.4 and 5 in the Contempt Case.

COUNTER OF 5TH RESPONDENT

17. The 5th respondent filed a counter affidavit on 05-03-2016 stating that in order to safe guard the interest of the Government, a decision was taken by the District Administration, Warangal not to allot paddy to rice millers or traders who were involved in cases under Section 6A or criminal cases under Section 7 of the Act on the ground that they have cheated the Government in misusing by supplying recycled rice to the Telangana Civil Supplies Corporation in the past and earned illegal profits at the cost of poor people. It is also stated that on this ground, the petitioner was not allotted paddy for the Kharif season 2015. Reference is also made to the fact that the interim order dt.14-12-2015 was received by his

office on 19-12-2015, by which date, allotment of custom milling paddy for the Parvathagiri Mandal was completed.

COUNTER OF 4TH RESPONDENT

18. The 4th respondent filed a counter affidavit dt.14-03-2017 alleging that the petitioner was allotted 806 quintals of paddy vide order dt.28-02-2017 of 5th respondent but the petitioner had refused to take the paddy allotted and the said order was pasted on his house in the presence of witnesses. She further stated that after bifurcation of the Districts, she was transferred and posted as the District Civil Supply Officer, Khammam on 11-10-2016 and working as District Civil Supply Officer, Khammam since then; but the interim order dt.14-12-2015 in W.P.M.P.No.51801 of 2015 in W.P.No.40133 of 2015 was received by her when she was working as District Supply Officer, Warangal; by that time, the paddy allotted for custom milling in respect of Parvathagiri Mandal was exhausted; and that was the reason why the petitioner was not allotted any stock for the Kharif season 2015-16. It is further stated that as per norms and allotment of paddy for custom milling, millers have to supply 67% of resultant rice to the Government, but a majority of raw rice millers including petitioner are unable to achieve and supply 67% of resultant rice and so during the Rabi 2015-16, only boiled rice millers were allotted custom rice milling paddy since they have achieved target irrespective of the season. It is further stated that 21 such raw rice millers were allotted custom milling of paddy during Rabi season 2015-16 since

they have assured that they would supply 67% resultant rice. She stated that she had great respect for the orders passed by this Court and did not have any intention to disobey the orders of this Court. She also tendered unconditional apology for the delay in implementing the Court order.

19. Similar stand is taken by 5th respondent in another counter affidavit filed on 14-03-2017.

REPLY AFFIDAVIT OF PETITIONER

20. Reply affidavit was filed by the petitioner pointing out that several persons had been allotted paddy for milling after the interim order dt.14-12-2015 was received by 5th respondent office on 19-12-2015 through the Indira Kranthi Patham centre. He contended that in spite of the interim order, the respondent has, an after thought, issued show cause notice for blacklisting on 20-12-2015 and a Memo dt.22-01-2016 stating that all the paddy allotment in Parvathagiri Mandal was completed only to get over the Contempt Case filed on 20-01-2016.

21. Petitioner also contended that though 806 quintals paddy was allotted to him by proceedings dt.28-02-2017, he has refused the same since the officials of the office of respondent Nos.4 and 5 stated that paddy would be delivered only if he gave written undertaking to withdraw the Contempt Case. He denied that he was unable to achieve supply 60% resultant rice during Rabi season 2015-16 and

stated that he was never involved or made aware of any such condition for supply of paddy for milling. He also stated that on 12-11-2016 when the Contempt Case was pending, an order was passed by 5th respondent blacklisting the petitioner on account of previous cases registered against him unrelated to custom milling of rice delivered under the 2015 Order. But the said order was not served on the petitioner till date.

CONTENTIONS OF COUNSEL FOR PETITIONER

22. Learned counsel for the petitioner reiterated these contentions raised in his affidavit and reply affidavit in his oral submissions.

CONTENTIONS OF ADDITIONAL ADVOCATE GENERAL

23. Learned Additional Advocate General appearing for respondent Nos.4 and 5 contended that on account of the fact that the interim order dt.14-12-2015 was received on 19-12-2015 by 5th respondent, and by that date, the allotment of paddy for Kharif 2015 had been completed, no allotment could be made to the petitioner for that season. He also stated that failure of the respondent Nos.4 and 5 not to allot any custom milling paddy to the petitioner for Rabi 2015-16 was on account of a misunderstanding that they need not allot since the petitioner was involved in case under Section 6A and Section 7 of the Act. He stated that due to bifurcation of the Districts in the State of Telangana, there was a delay in implementing the order passed by

this Court and that the blacklisting orders passed against the petitioner had been withdrawn and even though allotment was made to the petitioner on 28-02-2017, he declined to take the paddy.

24. I have noted the submissions of both sides.

THE CONSIDERATION BY THE COURT

25. From the above contentions of the parties, it is clear that the interim order dt.14-12-2015 passed by this Court in W.P.M.P.No.51801 of 2015 in W.P.No.40133 of 2015 was received by the respondent Nos.4 and 5 on 19-12-2015.

26. When the matter is *sub judice*, the 4th respondent who was working in the office of 5th respondent had issued a show cause notice on 20-12-2015 after receipt of the interim order to show cause why petitioner should not be blacklisted and another notice on 04-01-2016 to appear before 5th respondent for a hearing pursuant to the show cause notice. It is not disputed that on 22-11-2016, an order was passed black listing the petitioner and stating that on account of his involvement in Section 6A case and Section 7 criminal case, it was not desirable for allotment of paddy in the Kharif season 2016-17. However this was not served on petitioner.

27. When the interim order dt.14-12-2015 had directed the respondent Nos.4 and 5 to allot custom milling paddy to the petitioner's rice mill and when the Writ Petition was still pending, it

was highly improper on the part of the 5th respondent to pass the order dt.22-11-2016.

28. In the first counter affidavit filed by 5th respondent, he stated that because of petitioner's involvement in Section 6A case and in Section 7 criminal case, it was felt not desirable to allot paddy to petitioner. This contention was argued by the Government Pleader when this Court granted interim order on 14-12-2015. Therefore, respondent Nos.4 and 5 cannot again fall back on the same reason and refuse to implement the interim order.

29. Moreover even if the interim order dt.14-12-2015 was received by the respondent Nos.4 and 5 after the allotment of paddy for Kharif season of 2015 was completed, the reason given by them for not allotting paddy to the petitioner for Rabi 2015-16 i.e. that the petitioner would not deliver 67% of rice for the paddy delivered to him unlike boiled rice mills, is not acceptable. This new reason is clearly an afterthought. Even if it is a valid reason, as long the interim order granted was not vacated, the respondents cannot violate the same and give this new reason.

30. Also the plea of bifurcation of the Districts in the State of Telangana raised by the respondents is also without any merit. The bifurcation of districts took place in October, 2016. From 19-12-2015 till October 2016, the 4th respondent or 5th respondent had no valid

reason for not complying with the order passed by this Court at least for Rabi 2015-16.

31. The conduct of respondent Nos.4 and 5 in (i) issuing show cause notice dt.20.12.2015 for blacklisting petitioner, the day after they received the interim order dt.14-12-2015 on 19-12-2015, and (ii) their action in filing a counter affidavit reiterating that the petitioner was not given paddy for milling on the ground that he was involved in criminal case under Section 7 and a case under Section 6 of the Act (which reasons had already been considered while granting interim order) and (iii) the action of 5th respondent in passing the order dt.22-11-2016 blacklisting the petitioner, while the Writ Petition was pending show that the respondent Nos.4 and 5 have no respect for the orders passed by this Court and are bent upon trying to over reach the orders passed by this Court.

32. Having regard to the conduct of respondent Nos.4 and 5, it is not difficult to believe that while allotting paddy to the petitioner on 28-02-2017, they would not have insisted the petitioner to withdraw the Contempt Case also.

33. Therefore, the apology given by both of them cannot be said to be sincere and also *bona fide*. The apology is accordingly rejected.

34. Therefore, the Contempt Case is allowed. Respondent Nos.4 and 5 are sentenced to pay fine of Rs.2000/- (Rupees Two

Thousand only) each within four weeks from today and in default to suffer simple imprisonment for six weeks each.

35. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18-04-2017

Kvr

