

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Writ Appeal No.1739 of 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.35526 of 2017 dated 27.10.2017. The appellant herein filed the writ petition to declare the action of the 3rd respondent in passing the impugned order dated 20.07.2017 cancelling the appellant's seed licence which was valid upto 18.12.2019, and the appellate order of the 2nd respondent dated 12.10.2017, as illegal and arbitrary.

The appellant-writ petitioner is a seed company engaged in the business of development, production and marketing of seeds of various crops under a licence issued by the 3rd respondent. Respondents 4 to 6 inspected the appellant-writ petitioner's premises at Jogulamba, Gadwal on 03.06.2017, and seized 90 quintals of paddy on the ground that it did not have lot numbers and was not entered in the basic register. A complaint was lodged by the 6th respondent which was registered as Crime No.191 of 2017 on 03.06.2017. A seed squad inspected the appellant-writ petitioner's premises on 20.06.2017, and seized 12.64 quintals of red gram seeds and 73.15 quintals of remnant cotton seeds alleging that they were stored without any entry in the record books. Further, 845.19 quintals of paddy seeds were also detained on the ground that the stock position was not displayed on the stock board. A show cause notice dated 21.06.2017 was issued by the 5th respondent with reference to the aforesaid seizure. The appellant-writ petitioner submitted their reply thereto on 08.07.2017 stating that 90 quintals of paddy was not stored for the purpose of processing seeds; but was commercial paddy intended to be converted into rice to be given

for Annadanam to the devotees of Manyamkonda Temple which he has been donating every year since 2009.

The 3rd respondent issued another show cause notice on 06.07.2017 on the same ground, to which the appellant submitted their reply on 14.07.2017; and a cryptic order, bereft of reasons, was passed by the 3rd respondent on 20.07.2017. Aggrieved thereby, the appellant-writ petitioner preferred an appeal before the 2nd respondent who, in turn, passed another cryptic order on 12.10.2017 which is also bereft of reasons.

Aggrieved thereby, the appellant-writ petitioner invoked the jurisdiction of this Court under Article 226 of the Constitution of India. By the order under appeal, the Learned Single Judge set aside the order of the 2nd respondent, and remanded the matter to him to consider the appeal afresh, and pass appropriate orders in accordance with law, duly giving reasons therefor. The appellant-writ petitioner was, however, allowed to transfer the 90 bags of seized paddy to the Temple, under proper acknowledgment by the Temple authorities.

Sri Avinash Desai, learned counsel for the appellant-writ petitioner, would submit that, having noticed that both the orders of respondents 2 and 3 were bereft of reasons, the Learned Single Judge had erred in merely setting aside the order of the 2nd respondent, and in directing him to consider the appeal afresh; both the orders of respondents 2 and 3 ought to have been set aside on the ground that no reasons were assigned for passing the order; the original authority could have been asked to examine the matter afresh; the appellant-writ petitioner had also contended, before the Learned Single Judge, that the action of both respondents 2 and 3 was contrary to the Circular issued by the Commissioner of Agriculture dated 08.08.2017 which classified contraventions into two categories viz (i) rectifiable contraventions, and

(ii) non-rectifiable contraventions; it is evident from the table, referred to in the said Circular, that the contraventions alleged against the appellant-writ petitioner are rectifiable contraventions; the Circular requires the seed companies to be permitted to rectify the defects, and it is only if they do not do so were the seed inspectors empowered to detain or seize the stock; in the present case, besides seizing the stock from the appellant-writ petitioner, their licence was also cancelled; and, as planting of seeds in Rabi season would be completed by the end of November, 2017, remanding the matter to the 2nd respondent (appellate authority) would deprive the appellant-writ petitioner of their right to carry on business in the sale of seeds for the entire Rabi season; and any delay in disposal of the appeal by the 2nd respondent would cause them irreparable harm and injury.

On the other hand, the learned Government Pleader for Agriculture would draw our attention to the show cause notice issued on 21.06.2017, and the reply submitted thereto by the appellant-writ petitioner on 08.07.2017, to contend that the very fact that they had admitted to have procured 90 bags of paddy from farmers, and had detained such huge quantity without recording its receipt in their books of accounts, reveals their intention not to convert the paddy into rice, but to extract seeds therefrom which is prohibited under the Seeds (Control) Order, 1983 (for short “the Control Order”)

While Sri Avinash Desai, learned counsel for the appellant-writ petitioner, would contend, not without justification, that mere possibility of the paddy, purchased by the appellant-writ petitioner, being used to extract seeds, and not to be converted into rice, would not justify the respondents taking action against the appellant-writ petitioner; and preventive cancellation of the licence, for a possible future violation which may or may not happen, is wholly unjustified.

A bare perusal of the orders passed by respondents 2 and 3 show that they are bereft of reasons. The question which necessitates examination is whether the Learned Single Judge was justified in remanding the matter to the appellate authority, or whether he was obligated in law to also set aside the order of the original authority and remand the matter to him for his consideration afresh.

Paragraph 16(b) of the Seed Control Order relates to appeals and, thereunder, any person aggrieved by an order suspending or cancelling any licence may, within sixty days from the date of the order, appeal to such authority as the State Government may specify in this behalf, and the decision of such authority shall be final. The appellant-writ petitioner has availed the statutory remedy of an appeal under paragraph 16 of the Seed Control Order. As the scope of an appeal, under paragraph 16 of the Seed Control Order, is not limited in its scope, the appellate authority is not only entitled to set aside the order of the original authority on the ground that it is bereft of reasons, but also to examine whether cancellation of the appellant-writ petitioner's licence is in contravention of the Circular issued by the Commissioner of Agricultural dated 08.08.2017.

As the appellate authority has been conferred such a power, and as the scope for interference in an intra-court appeal under Clause 15 of the Letters Patent is extremely limited, we see no reason to interfere with the order under appeal. We, however, find merit in the submission of Sri Avinash Desai, learned counsel for the appellant-writ petitioner, that any delay, in the disposal of the appeal, would deprive the appellant-writ petitioner of their right to sell seeds, during the present Rabi season, causing them incalculable harm and injury.

We consider it appropriate, therefore, to modify the order of the Learned Single Judge; and direct the 2nd respondent to consider the

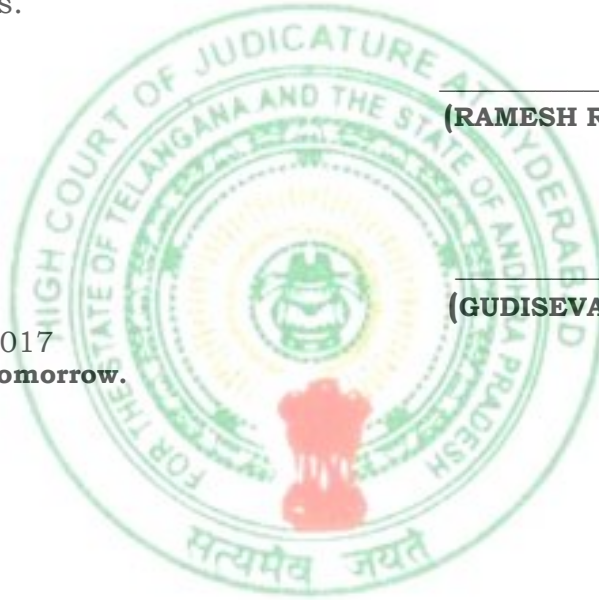
appellant-writ petitioner's appeal, including their contention that the 3rd respondent could not have suspended their licence in the light of the Circular issued by the Commissioner of Agriculture on 08.08.2017, and pass a reasoned order in accordance with law. The entire exercise, culminating in an order being passed afresh, shall be completed within one week from the date of receipt of a copy of this order. It is open to the appellant-writ petitioner to communicate the order now passed by us to the 2nd respondent either in person or by post.

The Writ Appeal is, accordingly, disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(GUDISEVA SHYAM PRASAD, J)

20th November, 2017
Note: Issue C.C. tomorrow.
JSU



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Date: 20.11.2017

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