

**HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY**

**WRIT PETITION No.37471 OF 2017**

**O R D E R :**

This writ petition is filed questioning the action of the 4<sup>th</sup> respondent in seizing the stocks of fertilisers of Koramandal 28:28:0, 187 bags and Nagarjuna Urea 360 bags from the premises of the petitioner on 03.08.2017 at about 1.30 p.m. and the proceedings of the 3<sup>rd</sup> respondent in Ref.No.1(2)/216/2017 dated 28.08.2017 directing to dispose the seized stocks in open market, as illegal and arbitrary.

The case of the petitioner is that he is doing business in selling the fertilizers under the name and style of Sri Sai Sapthagiri Agency for the last ten years by obtaining necessary permissions from the respective departments including licence bearing No.KDP/12/ADA/FR/2015/16528, dated 18.05.2015 which was valid upto 17.05.2018 and also obtained GST Provisional Registration from the concerned. While so, on 03.08.2017 the Vigilance and Enforcement Officials inspected the petitioner's business premises and registered a case against the petitioner under Section 6(A) of the Essential Commodities Act, 1955 (*for short 'the Act'*), presuming that the petitioner is doing clandestine business by diverting the stocks to black market thereby contravening the provisions of Clause 4(a) and 35(1) Fertilizers Control Order, 1985 which is punishable under Section 7(1) of

Essential Commodities Act, 1955. The inspecting officials have also seized the available stock. Thereafter, the petitioner submitted application before the 3<sup>rd</sup> respondent seeking to release the seized stocks, but without considering the same, the 3<sup>rd</sup> respondent passed the impugned order dated 28.08.2017 directing the 4<sup>th</sup> respondent to dispose of the seized stocks. Aggrieved by the same, present writ petition is filed.

Learned counsel for the petitioner submits that violations alleged against the petitioner are trivial and technical in nature and there is no object for black marketing on the part of the petitioner.

Heard learned Assistant Government Pleader for Agriculture.

It is to be seen that though petitioner made representation, without considering the same, the 3<sup>rd</sup> respondent passed the impugned order without giving any opportunity to the petitioner. More so, petitioner's counsel states that petitioner will be able to substantiate the allegations which are trivial and technical nature, in the enquiry under Section 6 A of the Essential Commodities Act.

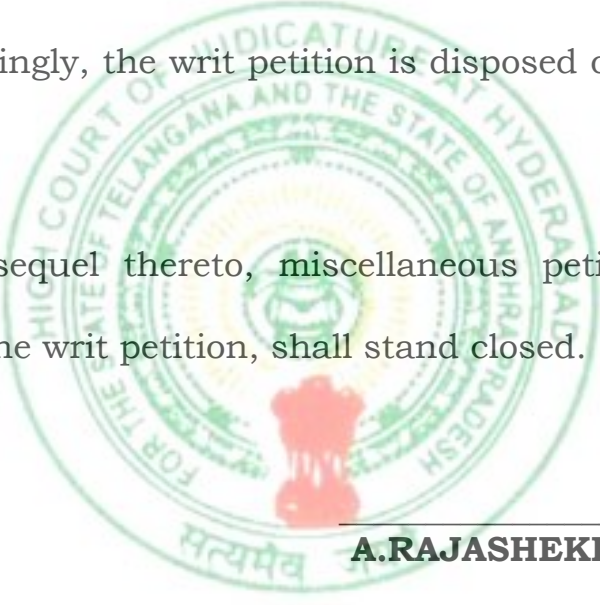
In view of the same, the 3<sup>rd</sup> respondent is directed to consider the representation of the petitioner dated 03.08.2017 for release of the seized stocks on furnishing

bank guarantee for the amount determined by the 3<sup>rd</sup> respondent as security. However, the same will be subject to further orders to be passed in the enquiry under Section 6 A of the Act. Pending such exercise of consideration of representation of the petitioner, there shall be stay of sale of seized stocks. The Competent Authority is also directed to conclude the enquiry under Section 6 A of the Act, within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

08.11.2017  
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**A.RAJASHEKER REDDY, J**