

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON No.38270 OF 2017

ORDER:

The case of the petitioners is that 1st petitioner is the proprietor of rice mill by name Sri Venkatasai Dattatreya Raw, Boiled and Flour Mill and he started rice business recently. On 03-10-2017 the 1st petitioner engaged a lorry bearing No.AP 04Y 2277 belongs to the 2nd petitioner to transport 225 quintals of rice to his mill. Suspecting to be PDS rice, the same was seized and the same was taken to police station and later on 05-10-2017 the 4th respondent again visited the mill of the 1st petitioner and seized balance stock on the ground of variation and seized 41.40 quintals of rice and 8.72 quintals of broken rice in addition to the rice and lorry seized on 03-10-2017. The petitioner filed petition before the 2nd respondent under Section 6-A of Essential Commodities Act (for short "the Act") on 09-10-2017 for release of stock and the lorry denying that the 1st petitioner has no PDS rice in his mill and he has produced ryot vouchers and monthly returns to the 2nd respondent. It is stated that there is no requirement of obtaining the FGL and there is no need to get certification of mill B-Register. Without considering the same, the impugned order dated 22-10-2017 is passed ordering for interim disposal of seized stocks and also release of seized lorry on furnishing

bank guarantee. Aggrieved by the same the petitioners filed the present writ petition.

Learned counsel for the petitioners challenges seizure as well as the impugned order as illegal, as there is no requirement of maintaining stock register or obtaining licence as A.P.Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008 is not in force as clarified by Ministry of Consumer Affairs, Food and Public Distribution Department of Consumer Affairs in File No.811/02/2015-BCR&E, dated 27-03-2015 and in pursuance of the same, the Government of Andhra Pradesh has also issued circular in CCS.Ref.No.PI(3)/1831/2014, dated 09-04-2015 addressing of issue to all Collector and DSOS and other licensing Authorities stating the same. He also submits that when the report is called from the A.P.State Civil Supplies Corporation and the said Corporation submitted analysis report stating that the sample seized from the petitioners cannot be identified as to whether it belongs to PDS or any other scheme.

On the other hand, learned Government Pleader for Civil Supplies submits that under Section 17-A of A.P.State Public Distribution System Control Order empowers the authorities to seize the same.

The report submitted by Civil Supplies Corporation specifically states that they are unable to decide whether the seized stock belongs to PDS rice or not. In the interim

disposal order it is stated that the petitioner has not filed ryot vouchers for the paddy said to have been purchased or any monthly returns are shown. As on today, no show-cause notice was issued under Section 6-A of the Act. The matter requires to be dealt with enquiry under Section 6-A of the Act. However, report shows that Civil Supplies Corporation is unable to make out whether sample sent from seized stock is PDS rice or not.

In view of the same, the 2nd respondent is directed to complete the enquiry under Section 6-A of the Act within a period of six weeks from the date of receipt of a copy of this order. Till then, seized stocks shall not be sold. Since report shows that it is not PDS rice, the 2nd respondent is directed to release the seized vehicle in favour of the 2nd petitioner on furnishing third party security. Further during enquiry, the 2nd respondent shall take into account the report given by Civil Supplies Corporation while concluding enquiry under Section 6-A of the Act.

With the above direction, the writ petition is disposed of. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

20-11-2017

Note:

Issue CC in three days.

Nvl







