

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25081 of 2004

M/s. Omkar Parboiled Modern
Rice and Oil Mills,
Managing Director,
Rep by its. A.Sudhakar,
L.M.D.Road, Thimaapur,
Karimnagar District,
Andhra Pradesh.

.... Petitioner

vs.

1. The Ex-Officio Secretary to Government,
Food and Consumer Protection Department,
Fort, Chennai - 9.

2. The District Collector,
Coimbatore, Coimbatore District.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus call for the records in so far relate to impugned G.O.M.S.No.251, Cooperation Food and Consumer Protection Department, dated 22.08.2003 on the file of the first respondent in so far relate to 20% of the confiscation and quash the same consequently directing the 2nd respondent to disburse the market value of the seized goods.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.Akhil Akbar Ali for R1-R2
Government Advocate.

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O R D E R

The order passed by the first respondent in G.O.M.S.No.251, Cooperation Food and Consumer Protection Department, dated 22.08.2003 ought to be challenged in the present writ petition and further direction is sought to direct the 2nd respondent to disburse the market value of the seized goods.

2. The petitioner was carrying on a business under the name and style of M/s.Omkar Parboiled Modern Rice and Oil Mills, LMD Road, Alugunoor - 505 527. Thimmapur (M) Karimnagar District, Andhra Pradesh. On 17.09.1996, the petitioner has received an order from Basheer and Co, Malappuram, Kerala State, for sale of 133 bags of rice. The petitioner had raised credit bill No.222, dated 17.09.1996 and obtained release certificate from the District Collector, Karimnagar District and loaded the said rice bags in lorry bearing Registration No.TN-57-6655 and the same was transported from Alugunoor, Andhra Pradesh to Kerala under the cover of valid bill, GVR, release certificate and invoice, when the lorry and goods on its way the same was duly been checked at the check posts enroute to Kerala.

3. The petitioner stated that Authorities checked the lorry and goods and allowed to proceed further. At the time of entering the State of Tamil Nadu, the Zu Zu Wadi check post Authorities also checked and verified the records and allowed to proceed further. The lorry when it is reached at Valayar check post, the Special Tahsildar Civil Supplies, Coimbatore (South) intercepted the vehicle and pursued the records produced by the driver and on suspicion, Authorities have not cleared the movement on the ground that there was no seal affixed by the Competent Authorities.

4. The learned counsel for the petitioner states that, the petitioner was a licensed trader in Andhra Pradesh and had transported 133 bags of rice from Alugunoor, Andhra Pradesh to Malappuram, Kerala under cover of valid bill, GVR, release certificate and invoice issued by the District Collector, Karimnagar. Therefore, he was legally transporting the rice bags to the State of Kerala from Andhra Pradesh. The respondent have illegally seized the rice bags without verifying the records properly and imposed penalty.

5. The appeal preferred by the writ petitioner was also allowed partly to the extent of 20 quintals rice bags were released. Further, the fine amount was reduced to Rs.25,000/-, challenging the said Government order, the present writ petition is filed. The first respondent, Secretary to Government, filed a counter statement by stating that on 19.09.1996, while the Special Tahsildar, (Civil Supplies), Coimbatore South was conducting vehicle check at about 10.00PM at Walayar Check post, the Special Tahsildar stopped a lorry speeding towards Kerala, bearing Registration No.TN-57-6655 checked and found that it was loaded with 133 bags of boiled rice. Verification of the documents revealed that the check post seals are not clear and no seals affixed in the last Andhra Pradesh check post.

6. As the movement of the lorry was suspicious, the Special Tahsildar retained the lorry with rice bags in the check post

and sent a report to the Collector's Office. The documents were perused, M/s.Omkar Parboiled Modern Rice and Oil Mills, Alugunoor, Karimnagar (Andhra Pradesh) has sold out 133 bags of boiled rice to M/s.Basheer and Co, Malappuram, Kerala as per bill No.222, dated 17.09.1996. The District Supply Officer, Karimnagar, Andhra Pradesh had issued permit No.13902 dated 13.09.1996 for the movement of 100 quintals of boiled rice to the Kerala State and as per the loading certificate issued by Mandal Revenue Inspector, Thimmapur, the lorry No. TN - 57 - 6655 loaded with 97.75 quintals (133 bags) boiled rice should pass through the last Andhra Pradesh Civil Supplies Check Post, Kolikonda Check Post on 19.09.1996 at 11.30 PM. But there was no seal on the bills affixed at Kolikonda check post. Further, as per the seal affixed at Zuzuwadi - Hozur Check post, the lorry crossed the check post on 19.09.1996 at 8.55 AM. This leads to a suspicion whether the Tamil Nadu rice has been transported under the guise of the Andhra Pradesh permit.

7. Thus, a notice was issued to M/s.Omkar Parboiled Modern Rice and Oil Mills, Alugunoor, Karimnagar (Andhra Pradesh) calling for explanation and personal enquiry. After hearing the accused in person, orders were passed in Collector's proceeding No.120454/96/P5 dated 19.10.1996 confiscating the entire quantity of seized rice and imposed penalty of Rs.1,26,350/- on the lorry owner. The appeal preferred by the lorry owner was partly allowed by the Government by reducing the penalty amount to Rs.25,000/- and 20 quintals of rice bag alone confiscated and rest of the rice bags are to be released by the Government.

8. This Court is of an opinion that, the District Collector has conducted an enquiry by verifying all the records and the personal enquiry was also conducted. Thus, the writ petitioner was provided with the opportunity to submit all the documents and furnish his statement and the statement of the lorry owner was also recorded. All the documents submitted by him were considered by the District Collector. Under these circumstances, this Court cannot go into the findings arrived by the District Collector which was confirmed by the Government. The power of judicial review under Article 226 of the Constitution of India can be exercised only to the extent of finding out the perversity or illegality regarding the procedures and the method adopted by the Competent Authority for arriving a conclusion.

9. In the present case, the enquiry was conducted by the District Collector had been confirmed by the Government. However, the Government reduced the penalty amount and further released the part of the rice bags. This being the factum of the case, this Court is not inclined to go in to the findings arrived by the District Collector which was confirmed by the

Government in respect of the verifications and the enquiries done by the Competent Authorities.

10. Thus, the writ petitioner has failed to establish any acceptable grounds for the purpose of considering the relief as such sought for in the present writ petition. Accordingly, the writ petition stands dismissed. No Costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

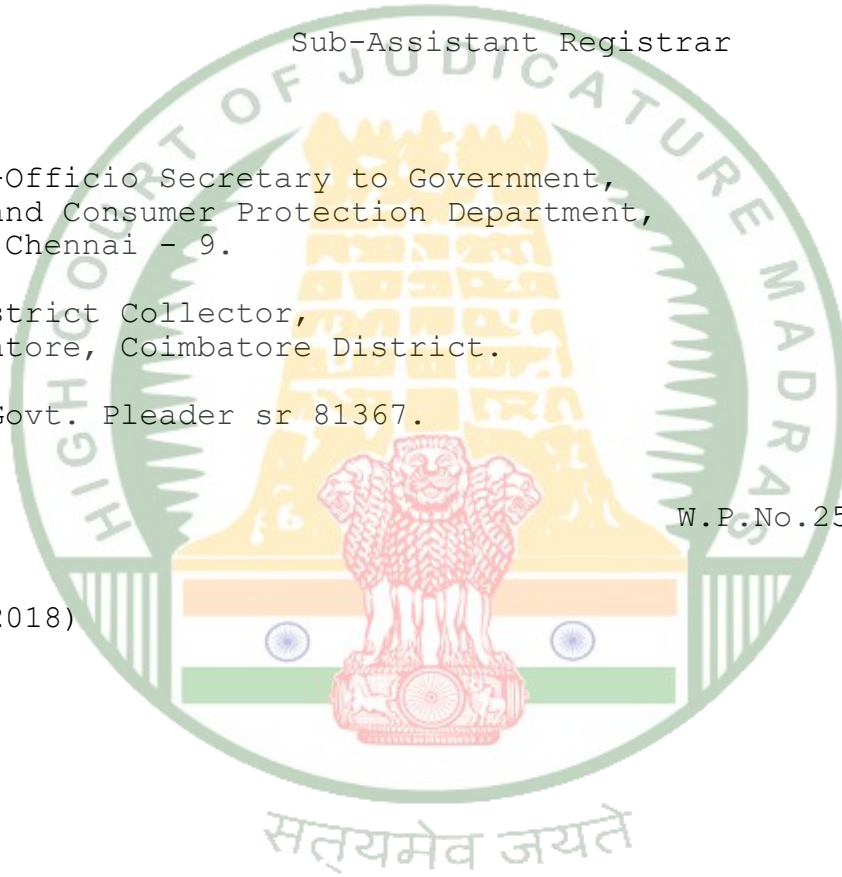
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To

1. The Ex-Officio Secretary to Government,
Food and Consumer Protection Department,
Fort, Chennai - 9.
2. The District Collector,
Coimbatore, Coimbatore District.

+1 CC to Govt. Pleader sr 81367.

W.P.No.25081 of 2004

MR(CO)
SP(31/12/2018)



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