

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No. 64 of 2018
and
Writ Petition No.42353 of 2017

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri S. Niranjan Reddy, learned Senior Counsel appearing on behalf of the appellant and the learned Government Pleader for Agriculture and Cooperation and, with their consent, the Writ Appeal is disposed of at the stage of admission. This appeal is preferred by the petitioner in W.P. No. 42353 of 2017 aggrieved by the order passed by the learned Single Judge in WPMP No. 52509 of 2017 in W.P. No. 42353 of 2017 dated 13.12.2017, dismissing their application to suspend operation of the order of the original authority dated 20.7.2017 as upheld by the order of the appellate authority dated 8.12.2017.

In the order under appeal, the learned Single Judge recorded that the petitioner had, himself, admitted that he had procured commercial paddy for the purpose of Annadanam; though the learned counsel for the petitioner stated that the violations alleged were rectifiable, since the petitioner had himself admitted the allegations in respect of paddy and red gram in his explanation, basing on which the impugned order was passed, he did not see any reason to suspend the order. The WPMP was dismissed.

Sri S. Niranjan Reddy, learned Senior Counsel appearing on behalf of the appellant-petitioner, would draw our attention to the order of the Division Bench, in W.A. No. 1739 of 2017 dated 20.11.2017, wherein the order passed by the original authority dated 20.7.2017, as upheld by the earlier order of the appellate

authority, cancelling the appellant's seed licence was subjected to challenge. In the order, in W.A. No. 1739 of 2017 dated 20.11.2017, the Division bench had noted the submission urged on behalf of the appellant that the action of the original authority was contrary to the Circular issued by the Commissioner of Agriculture dated 8.8.2007 which classified the contraventions into two categories viz (i) rectifiable contraventions, (ii) non-rectifiable contraventions; and the petitioner's contraventions, even if accepted, were rectifiable and not non-rectifiable. The Division Bench also noted the contention urged on behalf of the appellant that the 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; and preventive cancellation of the licence, for a possible future violation which may or may not happen, was wholly unjustified. On the sole ground that all these contentions could be urged in the appeal, the Division Bench directed the appellate authority to dispose of the appeal by a reasoned order.

Thereafter the appellate authority passed the impugned order dated 8.12.2017 which was subjected to challenge in the Writ petition and the interim order, which is the subject matter of the appeal before us, was passed therein. In his order dated 08.12.2017, the Commissioner of Agriculture - appellate authority, recorded that the task force team had raided the premises of the appellant on 20.6.2017, and had observed the following irregularities/violations ie, (1) non-display of price and stock board; (2) ground balance did not tally with the stock register; (3) a quantity of remnant seed of cotton of 7315 kgs, and red gram of

1264 kgs, worth Rs.72,505/- were found without any entries; and (4) a quantity of paddy seed of 845.19 quintals, worth Rs.22.82 lakhs, were found which was stored illegally without having any lot number and without having any entry in the basic register. The appellate authority further observed that the person available in the firm, at the time of inspection, had failed to produce any documentary evidence, and did not reveal that the paddy stock was stored for the purpose of Annadanam. The appellate authority found no reason to revoke the seed licence, and rejected the appellant's request for its rectification.

We find considerable force in the submission of Sri S. Niranjan Reddy, learned Senior Counsel appearing for the appellant-writ petitioner, that despite the earlier order of the Division Bench in W.A. No.1739 of 2017 dated 20.11.2017, whereby the appellate authority was required to consider the effect of the earlier Circular of the Commissioner dated 8.8.2007 which classified the contraventions into rectifiable and non-rectifiable contraventions, the appellate authority had failed to even take note of the Circular, let alone deal with it; the appellate authority had also erred in holding that 845.19 quintals of paddy were found stored, and the person available at the time of inspection did not show that the paddy stock was stored for the purpose of Annadanam; the appellate authority failed to notice that, while 845.19 quintals of paddy was detained as the stock position was not detailed in the display board, it is only 90 quintals of paddy which was found without being entered in the records; and in as much as the cotton seed remnant have been subsequently directed to be destroyed, the seized quantity of red gram seed and the

845.19 quintals of paddy were also returned, the dispute was confined to the balance 90 quintals of paddy.

The learned Government Pleader for Agriculture and Cooperation would fairly state that the appellate authority, despite the earlier order of the Division Bench in W.A. No. 1739 of 2017 dated 20.11.2017, had failed to take into consideration the Circular issued by the Commissioner of Agriculture dated 8.8.2007. Learned Government Pleader would, however, contend that, from a bare reading of the terms and conditions of the licence issued to the appellant-writ petitioner, the quantity of seeds, which the appellant-writ petitioner was entitled to handle, did not include paddy other than Varalakshmi SPH 3366 variety; and as the appellant-writ petitioner had, *ex-facie*, violated the terms and conditions of the licence, the order under appeal did not necessitate interference.

Sri S. Niranjan Reddy, learned Senior Counsel appearing for the appellant-writ petitioner, would submit that a learned Single Judge of this Court has already taken a view that, on a seed licence being issued, the dealer is entitled to carry on business in all seeds, and not merely those seeds referred to in the said licence; and consequently the stipulation in the licence, regarding the quantity of seed to be stored, is of no consequence.

It would be wholly inappropriate for us to undertake an examination of the rival submissions in this regard, since these factors do not even form the basis of the show cause notice issued by the original authority. It is only if the appellant-writ petitioner is put on notice of any such violation on their part, and are given an opportunity of being heard, could the original authority have

taken action against him for violation of any such conditions of the license. As it is evident, from a bare reading of the order of the appellate authority, that the appellant-writ petitioner's contention regarding applicability of the earlier circular of the Commissioner of Agriculture dated 8.8.2007 has not been dealt with, we consider it appropriate to set aside the order of the appellate authority, and remand the matter for his consideration afresh and in accordance with law.

Sri S. Niranjan Reddy, learned Senior Counsel appearing for the appellant-writ petitioner, would submit that the order of the appellate authority is being set aside by this Court for the second time and, consequently, the appellant-writ petitioner should be permitted to carry on business in the interregnum, ie, till the appeal is considered afresh by the appellate authority and final orders are passed by him.

While it does appear that on both the earlier occasions, the appellate authority had either failed to assign reasons, or has failed to consider the earlier circular dated 8.8.2007 despite the specific directions of this Court, it would be inappropriate for us to take upon ourselves the task of examining whether or not storage of 90 quintals of paddy violated the terms and conditions of the licence, justifying its cancellation, for the Statute confers such a power only on the prescribed authorities.

As the appellant-writ petitioner has not been permitted to carry on business ever since 20.7.2017, it is but appropriate that the appellate authority decides the appeal with utmost expedition and, in any event, not later than two weeks from the date of receipt of a copy of this order. The appellate authority shall consider the

objections raised by the appellant-writ petitioner, deal with them, and assign reasons for his acceptance/refusal to accept the contentions urged in the appeal.

The Writ Appeal is accordingly disposed of. Both the learned Counsel agree that, in view of the order now passed by us in the Writ Appeal, the cause in the Writ Petition does not survive necessitating any further adjudication. The Writ Petition is, accordingly, dismissed as infructuous. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.



(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

22nd January, 2018

Note: Furnish c.c. in three days.

b/o

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