

In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra Pradesh

Writ Petition No.21543 of 2018

Between:

Pulluri Vijay

... Petitioner

and

The State of Telangana
Rep. by its Chief Secretary
Secretariat Buildings, Hyderabad
and 7 others

... Respondents

Date of Judgment Pronounced: 01-08-2018

Submitted for Approval:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

1. Whether Reporters of Local newspapers may be allowed to see the judgments ? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ? Yes/No

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

* The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and
The Hon'ble Sri Justice Gudiseva Shyam Prasad
+ Writ Petition No.21543 of 2018

% Dated 01.08.2018

Between:

Pulluri Vijay

... Petitioner

and

The State of Telangana,
Rep. by its Chief Secretary,
Secretariat Buildings, Hyderabad
and 7 others

...Respondents

! Counsel for the petitioner: Mr.Bollam Lingaiah Yadav

^ Counsel for the respondents: GP for Home (TS)

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? Cases cited:

W.P.No.7811 of 2016 & batch, dated 13-07-2016



The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Writ Petition No.21543 of 2018

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Pulluri Vijay

... Petitioner

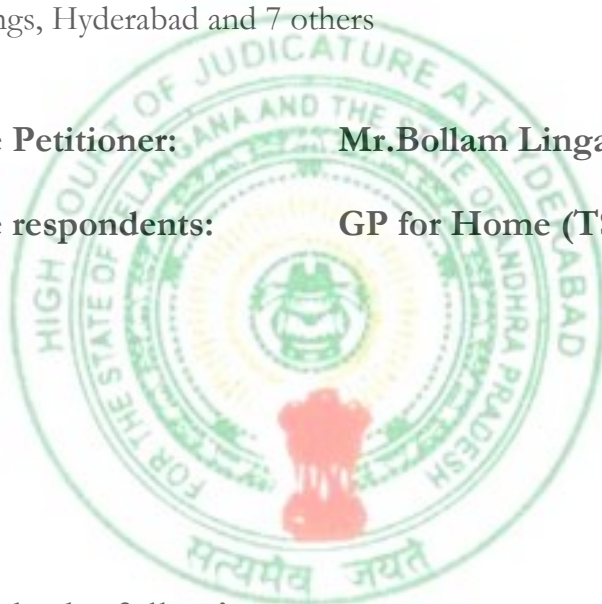
and

The State of Telangana
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... Respondents

Counsel for the Petitioner: Mr.Bollam Lingaiah Yadav

Counsel for the respondents: GP for Home (TS)



The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The detention of the petitioner's father *viz.*, Sri Pulluri Krishna Murthy (for short 'the *detenu*') under Section 3 (1) and (2) of prevention of Black Marketing and Maintenance of Essential Commodities Act, 1980 (Act No.7 of 1980) *vide* Proc.No.F1/52/2018, dated 26.04.2018, of respondent No.5, is assailed in this Writ Petition.

The *gravamen* of the allegation against the *detenu* is that he has been habitually indulging in purchase of the rice meant for Public Distribution System and selling the same in black market. In the grounds of detention order, respondent No.5 has referred to as many as four cases booked against the petitioner, between 22.03.2017 and 28.12.2017, under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act').

Mr.Bollam Lingaiah Yadav, learned Counsel for the petitioner, relied upon a Judgment of this Court in **Maimuna Begum vs. The State of Telangana, rep. by its Chief Secretary**¹ and submitted that the impugned detention order is liable to be set aside following the said Judgment. The learned Counsel further submitted that the allegation that the *detenu* had been purchasing

¹ W.P.No.7811 of 2016 & batch, dated 13-07-2016

the rice meant for Public Distribution System and selling the same in black market is false.

Opposing the above submissions, the learned Government Pleader for Home argued that following the Judgment in **Maimuna Begum** (cited supra), the State of Telangana has amended Clause 17 of the Telangana State Public Distribution System (Control) Order, 2016 (for short 'the Control Order') by inserting sub-clause (e) rendering any person, who is found to have purchased the rice supplied through Public Distribution System either from the card holder or from the F.P.Shop dealer or any other source, liable for criminal action and imposition of penalty as may be fixed by the competent authority and that therefore, the impugned detention order having been passed after the said amendment coming into force, the Judgment in **Maimuna Begum** (cited supra) has no application.

As regards the second submission of the learned Counsel for the petitioner, the learned Government Pleader submitted that this Court, in exercise of its Habeas Corpus jurisdiction, would not deal with the correctness or otherwise of the allegations as the subjective satisfaction of the detaining authority that the activities of a person are prejudicial to the public order, is sufficient to order the detention of that person.

As regards the first submission of the learned Counsel for the petitioner, in **Maimuna Begum** (cited supra), a Division Bench of this Court, speaking through one of us (CVNR, J), considered the validity or otherwise of certain preventive detention orders passed in the year 2016 and on finding that neither the Act nor the Control Order contained any prohibition on the activity of purchase and sale of the rice meant for Public Distribution and that once there is no such prohibition, the *detenus* cannot be accused of committing any offence, it has set aside the detention orders. In order to plug the loophole pointed out by this Court, the State of Telangana has amended Clause 17 of the Control Order by inserting Sub-Clause (e) with effect from 19.08.2016, which reads as under:

“(e) If any person is found to have purchased the rice supplied through PDS either from the card holder or the F.P.Shop dealer or any other source, he shall be liable for criminal action and imposition of penalty as may be fixed by the Competent authority.”

With the introduction of Clause (e) to Section 17 of the Control Order, the activity of purchasing the rice supplied through Public Distribution System either from the card holder or from the dealer or from any other source is treated as an offence and a person indulging in such activities is liable for criminal action.

Therefore, as rightly submitted by the learned Government Pleader, in view of such amendment, the Judgment in **Maimuna Begum** (cited supra) is of no help to the petitioner.

As regards the second submission of the learned Counsel for the petitioner, it is not in dispute that as many as four cases were registered against the *detenu* on the allegation that he has been indulging in the activity of purchase and sale of the rice meant for Public Distribution System. As submitted by the learned Government Pleader, if, based on the relevant material, the detaining authority has come to the conclusion that the *detenu's* activities are prejudicial to the public order, such satisfaction being subjective, this Court would not embark upon the truth or otherwise of the allegations while exercising the Habeas Corpus jurisdiction. Therefore, it is not permissible for the petitioner to question the subjective satisfaction of the detaining authority on the purported ground of the allegations being false.

For the aforementioned reasons, we do not find any merit in the Writ Petition and the same is, accordingly, dismissed.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 1st August, 2018

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