

HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.937 of 2018

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard the learned Advocate General on behalf of the Andhra Pradesh Civil Supplies Corporation, the learned counsel for the writ petitioners and the learned Standing Counsel for the Food Corporation of India (FCI).

2. The writ petitioners represent the interest of rice millers, who have contracts for milling of paddy and to provide rice to FCI and the Civil Supplies Corporation.

3. Having heard the submissions of the learned Advocate General and the learned counsel for the writ petitioners and also on noticing that the appeal is against an interlocutory order passed pending the writ petition, we are of the view that it would be profitable that we do not elaborate much on the facts, having particular regard to the directions being issued hereunder.

4. In terms of the contract of milling, the millers have to provide rice to the Civil Supplies Corporation for the purpose of the Public Distribution System. The Corporation is entitled to direct delivery of the rice to the FCI as well. FCI has refused to take the supplies on the allegation that they are sub-standard.

5. The learned Single Judge has directed that if the FCI does not accept the rice that is supplied to it by the millers, the Civil Supplies Corporation would take the rice since it had made available the paddy for milling. However, we think that the direction to the Civil

Supplies Corporation to retain such rice until further orders cannot be permitted to continue to hold the field for a long time having regard to the fact that rice is also a perishable commodity, more particularly so, when the allegation is that the available rice is sub-standard. We are also of the view that if the FCI or the Civil Supplies Corporation is not ready to take the rice, it may be possible for the adjudicating authority to look into the question whether the millers could be permitted to utilize the rice for their private sale and pay such amounts, as may be due, in accordance with law, to the Civil Supplies Corporation.

6. We are satisfied that the learned Single Judge was justified in passing an order staying the encashment of bank guarantees. However, the writ petitioners should have also been saddled with the responsibility to keep the bank guarantees alive till the termination of the writ petition, from which this Writ Appeal arises.

7. For the foregoing reasons, this Writ Appeal is ordered directing that the restriction placed on encashing the bank guarantees will be conditional on the writ petitioners, renew all those bank guarantees from time to time and keep them live during the pendency of the Writ Petition, from which this Writ Appeal arises.

8. The question as to who shall utilize the rice and in what manner may be considered by the learned Single Judge after taking on record the pleadings of all parties concerned and after hearing them on that issue.

9. Since the matter involved is rice for the purpose of Public Distribution System and because rice is a perishable commodity, on the facts and in the circumstances of the case, we further request the learned Single Judge to expeditiously consider the Writ Petition for interlocutory order in the light of what is stated above without delay. List the Writ Petition before the learned Single Judge on 23.07.2018.

10. We record that the Civil Supplies Corporation has not taken delivery of the rice from the millers as of now. That issue will also be left open for further consideration by the learned Single Judge.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.



THOTTATHIL B. RADHAKRISHNAN, CJ

Date: 16.07.2018

RAMESH RANGANATHAN, J

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