

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.39419 OF 2018

Date: 08.11.2018

Between:

M/s. Sony Agri Inputs, rep.by its Proprietor,
K.Raj Kishore, s/o. Nageswar Rao, R/o.D.No.1-34,
Near MRO Office, Tsundur, Guntur District,
Regd.Office and Factory at D.No.15-16,
Kandepadu Colony, Modukuru Village,
Tsundur, Guntur district.

.....Petitioner

and

The State of Andhra Pradesh, rep.by its
Principal Secretary, Department of Agriculture and
Cooperation, Secretariat, Velagapudi, Amaravathi,
Guntur district and others.

.....Respondents



The Court made the following:

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ORDER:

Heard learned counsel for petitioner, learned Government Pleader for Agriculture for respondent Nos.1 to 4 and learned Government Pleader for Revenue for respondent No.5.

2. Petitioner is aggrieved against seizing the bio-products of the petitioner-firm under panchanama dated 25.11.2017. By this seizure panchanama, about 22 items of alleged bio-products were seized and their value was assessed as 17,17,740/-, in addition godown was also seized. Reading of panchanama would show that when demanded by the Inspecting Team, petitioner could not show enrolment copy, acknowledgement copy and further when demanded, petitioner also stated that stock register, bill books and invoices were not available with him and were available with the Auditor. Not satisfied with the explanation, stocks were seized and godown was locked.

3. Learned counsel for petitioner sought to contend that in terms of guidelines laid down by the learned single Judge of this Court in W.P.No.25293 of 2014 and batch dated 10.07.2015, it is not permissible to seize the bio-products and, therefore, same is illegal. However, this contention is stated to be rejected. Aggrieved by the order of learned single Judge, Writ Appeal Nos.1122 and 1136 of 2016 were preferred. This Court noticed that few of the guidelines are contrary to statutory mandate. This Court also observed that guidelines prescribed by the learned single Judge can only supplement and not supplant the law and would remain

in force only till appropriate legislation, either plenary or subordinate, is made.

4. Learned Government Pleader would point out that Government has issued notification vide G.O.Ms.No.18 Agriculture and Cooperation (Agri.III) Department dated 10.03.2017. As per this notification, persons indulging bio-products have to compulsorily enrol with the Department of Agriculture.

5. Apparently, petitioner has not enrolled. Having regard to the fact that petitioner has not enrolled and that no material sought by the inspection team was produced when the inspection was made and goods were seized, the contention of learned counsel that seizure is illegal, by placing reliance on the directions of the learned single Judge in batch of writ petitions, cannot be countenanced.

6. At this stage, learned counsel for petitioner submits that petitioner is willing to furnish bank guarantee for the value of bio-products seized if stocks are released.

7. Learned Government Pleader submits that samples were drawn and sent for laboratory, but as there is only one laboratory, it is taking time to analyze the samples and to furnish report.

8. Having regard to these submissions, Writ Petition is disposed of with the following directions:

i) Subject to petitioner furnishing bank guarantee for the extent of 17,17,740/-, the bio-products seized from the petitioner's godown shall be released;

ii) Liberty is granted to petitioner to apply for compulsory enrolment as per G.O.Ms.No.18, dated 10.03.2017.

iii) After petitioner applies for compulsory enrolment and all the formalities required are complied, subject to the satisfaction of competent authority, the seizure of godown may be lifted;

iv) It is open to the respondents to take further action as warranted by law based on the report of the laboratory on analyzing the samples collected, notwithstanding release of stock and applying for compulsory enrolment according to G.O.Ms.No.18, dated 10.03.2017.

Pending miscellaneous petitions shall stand closed.

Date: 08.11.2018
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