

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.41276 OF 2018

Date:26.11.2018

Between:

M/s. NG Fertilizers and Chemicals Private
Limited, having its Regd.office 5-143/2,
Nehru Nagar, Bapulapadu, Nuziveedu,
Krishna District, Factory at Sy.No.224/2,3,
NH-5, Kodurupadu Village, Bapulapadu
Mandal, Krishna District, Andhra Pradesh,
Rep., by its Managing Director
N. Harikiran and another

.. Petitioners

And

The State of Andhra Pradesh, rep., by its
Principal Secretary, Agriculture and
Cooperation Department, 4th Block,
Ground Floor, Room No.101, A.P.
Secretariat Office, Velagapudi,
Andhra Pradesh and another

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.41276 OF 2018****ORDER:**

Heard learned counsel for petitioners and learned Government Pleader for Agriculture.

2. Petitioners are existing licence holders to manufacture NPK Granulated Mixture Fertilizers. The licence expired on 14.07.2018. On 11.07.2018 i.e., prior to expiry of the earlier licence period, petitioners applied for renewal. By order dated 31.08.2018, the renewal application was not accepted and the licence was cancelled. This cancellation order was challenged before this Court in W.P.No.33269 of 2018. The Court, by order dated 17.09.2018 set aside the impugned order directing the 2nd respondent - Registering Authority to issue fresh show cause notice, call for the explanation, consider the explanation and pass orders within four weeks from the date of receipt of the order. Alleging inaction on the said direction issued by this Court seeking enforcement of the same, this Writ Petition is filed.

3. Learned Government Pleader for Agriculture submitted that the copy of the order in W.P.No.33269 of 2018 was received by the respondents on 05.11.2018 and on 14.11.2018, notice was drawn and served on the petitioners on 16.11.2018. Learned Government Pleader would therefore submit that if explanation is offered by the petitioners, appropriate decision would be made within the time granted by the Court.

4. At this stage, learned counsel for the petitioners would submit that as per Clause 18 (4) of the Fertilizer (Control) Order, 1985 (for short, 'the Control Order'), if renewal application is made before expiry of existing licence period, it is deemed that the certificate of manufacture is valid and in terms thereof, petitioners are entitled to carry out manufacturing until a decision is made. In the alternative, learned counsel for petitioners would also submit that the raw material was already drawn and lying in the premises of the petitioners causing lot of hardship to them and permission may be granted for disposal of the same.

5. No doubt, Clause 18 (4) of the Control Order is a deemed clause, which enables the existing licence holder to operate the manufacturing activity until the application for renewal is processed and a decision is made. In the case on hand, earlier the request for renewal was rejected on 31.08.2018 which was challenged in W.P.No.33269 of 2018. This Court though set aside the said order, prescribing the time limit for issuing fresh show cause notice, calling for explanation and passing orders, no direction was issued to continue the manufacturing activity by referring to the deemed clause in Clause 18 (4) of the Control Order. Since the Court has fixed the time frame for completing the exercise, this Court is not inclined to grant the relief as sought for by the petitioners at this stage. Moreover, notice was already served on the petitioners and petitioners are yet to submit their explanation.

6. With reference to the claim to dispose of the raw material lying in the premises of petitioner unit since the petitioners are not

doing any manufacturing activity from July, 2018, it is open to the petitioners to make a request to the competent authority seeking permission to dispose of the raw material/stock laying with them and if such an application is made, the competent authority shall consider the same and if there is no other impediment, shall grant permission for disposal of the raw material stock within one week from the date of submission of the application. All other issues are left open to be agitated.

7. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

Date: 26.11.2018

Note:- Issue C.C. in two days.
(B/o)
KH

P. NAVEEN RAO, J

