

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.43312 OF 2018

Date:20.12.2018

Between:

Madunuri Sai Rama Krishna Raju,
S/o. Pallamraju, Hindu, Aged about 44 years,
Occ: Business, R/o.Flat No.26, KSR Nagar,
Chillakallu Village, Jaggaiahpet Village and
Mandal, Krishna District (Owner of Vehicle
bearing No.AP16TX-2621 and AP20X-9115) .. Petitioner

And

The State of Andhra Pradesh, rep., by its
Principal Secretary, Consumer Affairs,
Food and Civil Supplies, Secretariat
Buildings, Velagapudi, Amaravathi,
Guntur District and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.43312 OF 2018****ORDER:**

Heard learned counsel for the petitioner; learned Government Pleader for Civil Supplies appearing for respondents 1 and 2 and learned Government Pleader for Home appearing for respondent No.3.

2. Petitioner claims to be the owner of goods transport vehicles bearing Nos.AP16TX-2621 and AP20X-9115. According to petitioner, his two vehicles were engaged by Venkateswara Rice Mill, Kodad, for the purpose of transportation of 175 quintals of rice each. While transporting the rice, the respondent authorities seized the stocks along with the vehicles alleging that PDS rice was illegally transported. Consequent to seizure of rice and the vehicles, proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short, 'the Act') were initiated. Prosecution was also launched under Section 7 of the Act. Petitioner was shown as accused in C.C.No.79 of 2017 on the file of III Metropolitan Magistrate, Vijayawada. Petitioner filed W.P.No.35894 of 2015 challenging the seizure of rice and the vehicles. This Court, by order dated 04.11.2015, directed the respondents to release the vehicles subject to petitioner furnishing bank guarantee to the vehicles seized, as determined by the 2nd respondent in the said Writ Petition. As the petitioner failed to furnish the bank guarantee, as directed, the vehicles were not released.

3. In C.C.No.79 of 2017, the competent Court acquitted the petitioner. This Writ Petition is filed alleging that proceedings under Section 6-A of the Act are no more maintainable and they should be quashed and the vehicles should be released.

4. According to learned counsel for the petitioner, though arguments were concluded long ago in the proceedings under Section 6-A of the Act, so far no orders are made.

5. Learned Government Pleader for Civil Supplies, on instructions, submits that shortly the respondent authorities will pass orders in the proceedings under Section 6-A of the Act.

6. In support of the contention that proceedings under Section 6-A of the Act are no more maintainable, learned counsel for the petitioner placed reliance on the decision of the Full Bench of this Court in **Arvapalli Kotiratnam v. State represented by S.I. Vigilance Cell, Guntur**¹ and the decision of the Division Bench of this Court in **Krishna Oil and General Merchant and Commission Agent, Ravulapalem, v. State of Andhra Pradesh**². He would submit that as per the view taken by the Full Bench and the Division Bench, once acquittal is granted in proceedings under Section 6-A of the Act, proceedings under Section 7 of the Act are not maintainable.

7. Per contra, learned Government Pleader for Civil Supplies submits that as the very issue was considered by the Hon'ble Supreme Court in the decisions placed before this Court, the proceedings under Section 6-A of the Act are independent of

¹ AIR 1974 Andhra Pradesh 207

² 1983 (1) A.L.T. 132

proceedings under Section 7 of the Act and the result in proceedings under Section 7 of the Act have no bearing on Section 6-A proceedings. He would also submit that it is premature for this Court to go into those issues in a Writ Petition filed under Article 226 of the Constitution of India and even before a decision is made by the competent authority and moreover there are disputed questions of fact which can be gone into by the competent authority.

8. It is not in dispute that the proceedings under Section 6-A of the Act are yet to be finalized though it is more than three years.

9. In view of the fact that the proceedings under Section 6- A of the Act are pending before the quasi judicial authority, the Court is not inclined to enter into the issue as to whether the said proceedings can be continued once acquittal is granted by the competent authority in proceedings under Section 7 of the Act. However, it is always open to the petitioner to raise the contentions as urged before this Court and invite a finding from the competent authority and only after a decision is made by the competent authority, if such authority is not agreeing with the contentions urged by the petitioner, the issue can be gone into by this Court. It cannot be expected that the quasi judicial authority would brush aside the contentions of the petitioner and would come to a conclusion holding the petitioner guilty ignoring the decisions sought to be relied upon by him in support of the contentions that proceedings under Section 6-A of the Act are not maintainable once acquittal is granted in proceedings under Section 7 of the Act.

10. The Writ Petition is accordingly disposed of granting liberty to the petitioner to file written submissions by enclosing the decisions, referred to above, relied upon by him. Since so far no orders are passed by the competent authority, the competent authority is directed to fix a date by intimating the same in advance to the petitioner and hold personal hearing on the date so fixed. It is open to the petitioner to make submissions in support of his contentions that proceedings under Section 6-A of the Act are not maintainable. On due consideration of the written submissions filed by the petitioner and the oral submissions that may be made during the course of personal hearing, the competent authority shall pass orders as warranted by law by assigning due reasons in support of its decision within a period of three weeks thereafter. Having regard to the fact that the issue relates to the year 2015, the competent authority is directed to conclude the proceedings within six weeks from the date of receipt of a copy of the order. There shall be no order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:20.12.2018

Note:- Issue C.C. in ten days.

(B/o)

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