

***THE HONOURABLE SRI JUSTICE P.NAVEEN RAO**

+W.P. Nos. 46643 of 2018

% 24.12.2018

Ramavath Shankar S/o Dulya Naik aged 40 yearss Proprietor
M/s Ramco Agritech R/o Plot No 15 and 16 North Plot 3rd floor Road No
2 Chandrapuri Colony L B Nagar Hyderabad

....petitioner

Vs.

\$The State of Telangana
Rep by its Principal Secretary Agriculture and Marketing Department
Secretariat buildings Hyderabad & others

.... Respondents

!Counsel for the petitioner : Sri D.Krishna Murthy

Counsel for the Respondents: Sri.Govt Pleader for Agriculture

<Gist :

>Head Note:

? Cases referred:
(1996) 4 SCC 69



**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

WRIT PETITION NO. 46643 of 2018

Between :

Ramavath Shankar S/o Dulya Naik aged 40 yearss Proprietor M/s
Ramco Agritech R/o Plot No 15 and 16 North Plot 3rd floor Road No 2
Chandrapuri Colony L B Nagar Hyderabad

.... Petitioner

And

The State of Telangana
Rep by its Principal Secretary Agriculture and Marketing Department
Secretariat buildings Hyderabad & others

.... Respondents

JUDGMENT PRONOUNCED ON : 24.12.2018

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers may : YES
Be allowed to see the Judgments ? :
2. Whether the copies of judgment may be marked : YES
To Law Reporters/Journals : :
3. Whether Their Ladyship/Lordship wish to : NO
See fair Copy of the Judgment ? :

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 46643 of 2018

Date : 24.12.2018

Between:

Ramavath Shankar S/o Dulya Naik aged 40 yearss Proprietor M/s
Ramco Agritech R/o Plot No 15 and 16 North Plot 3rd floor Road
No 2 Chandrapuri Colony L B Nagar Hyderabad

Petitioner

And

The State of Telangana
Rep by its Principal Secretary Agriculture and Marketing
Department Secretariat buildings Hyderabad & others

Respondents

The Court made the following:



HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 46643 of 2018

ORAL ORDER:

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

2. Petitioner claims to be doing business of sale of seeds of different varieties for the purpose of germination. Petitioner claims to have obtained license on 22.4.2016 under 'The Seeds (Control) Order, 1983' (for short the Order, 1983) to sell, export, import and store for the purpose of seeds, valid till 21.4.2019. Petitioner claims that he also had valid co-marketing agreement with M/s. Satya Agri Biotech Pvt Ltd to market their cotton hybrid BG-II seeds. Petitioner claims that he is doing seeds business in accordance with the Order, 1983. While so, petitioner was served with show cause notice dated 31.10.2018 leveling 5 allegations of violations of Order, 1983 and carrying on illegal business in storage, package and marketing of BT cotton seeds. Petitioner submitted explanation on 2.11.2018. On due consideration of the said explanation, on 3.11.2018 order impugned is passed canceling the license granted to him on 22.4.2016 in exercise of power vested by Clause 15 of the Order, 1983. Against the said order, remedy of appeal is provided by Clause 16 of the Order, 1983 without availing the said remedy this writ petition is filed.

3. Learned counsel for petitioner sought to contend that as the order impugned is not preceded by opportunity of hearing, order is vitiated, therefore petitioner need not be compelled to avail the remedy of appeal. It was sought to contend that appropriate documents are available and if only personal hearing was afforded, petitioner would have placed all the documents to substantiate his defense and therefore, impugned order is liable to be set aside on that ground.

4. Contention of learned counsel for petitioner that Clause 15 of the Order, 1983 requires personal hearing is stated to be rejected. Clause 15 does not envisage personal hearing. 'Opportunity of hearing' incorporated in Clause 15 does not mean that petitioner has to be personally heard. The explanation offered by petitioner was considered while passing the order impugned. This is in compliance of Clause 15 and principles of natural justice. Further more, from a reading of the explanation submitted by the petitioner, it is seen that petitioner has not requested to hold personal hearing.

5. This very aspect was considered by Hon'ble Supreme Court in **Union of India Vs. Jesus Sales Corporation**¹. Relevant entry in Section 4-M(2) of Imports and Exports (Control) Act, 1947 reads, '....after giving to the appellant a reasonable opportunity of being heard....' The Supreme Court held that this does not in all circumstances mean a personal hearing. Paragraph 5 of the judgment to the extent relevant reads as under:

"5.....When principles of natural justice require an opportunity to be heard before an adverse order is passed on any appeal or application, it does not in all circumstances mean a personal hearing. The requirement is complied with by affording an opportunity to the person concerned to present his case before such quasi-judicial authority who is expected to apply his judicial mind to the issues involved. Of course, if in his own discretion if he requires the appellant or the applicant to be heard because of special facts and circumstances of the case, then certainly it is always open to such authority to decide the appeal or the application only after affording a personal hearing. But any order passed after taking into consideration the points raised in the appeal or the application shall not be held to be invalid merely on the ground that no personal hearing had been afforded."

¹ (1996) 4 SCC 69

6. Learned counsel for petitioner sought to contend that he has valid authorization and marketing agreement from the person who is having GEAC approval. He also sought to contend that petitioner has authorized premises, therefore, it is not an unauthorized storage of BT cotton seed.

7. On bare perusal of the show cause notice, it is clear that specific allegations are leveled such as petitioner firm does not possess GEAC Government of India approval for production and storage, packing and marketing of BT cotton; petitioner firm stored bulk BT cotton seed in an unauthorized premises and so on. Explanation on those allegations were considered while passing the order impugned. Whether, there was improper consideration is a matter to be agitated in appeal.

8. Whether petitioner has valid permission to deal with the cotton seed and whether petitioner has valid authorized premises etc, can be agitated before the Appellate Authority, which can go into the issues based on material placed before it and come to an appropriate conclusion.

9. Having regard to the fact that against the impugned order, remedy of appeal is provided under Clause 16 of the Order, 1983, Court is not inclined to entertain the writ petition at this stage. Accordingly, writ petition is dismissed, leaving it open to the petitioner to avail the remedy of appeal raising all the pleas including the pleas raised in this writ petition. No costs. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 24-12-2018

TVK

Note: L R Copy to be marked—YES

HONOURABLE SRI JUSTICE P. NAVEEN RAO



WRIT PETITION No. 46643 of 2018

Date : 24.12.2018