

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**FRIDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE K. SARATH

WRIT PETITION NO: 15695 OF 2016

Between:

M/s.Kalyani Rice Industries, Rep.by its Partner, Garlapati Mattupalli S/o Mallaiah,
aged 56 years, Occ Business, R/o Miryalaguda, Nalgonda District.

...PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary, Consumer Affairs,
Food and Civil Supplies T.S. Secretariat Buildings Hyderabad.
2. The District Collector, Nalgonda, Nalgonda District.
3. The Grain Purchasing Officer, Miryalaguda, Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to Issue an appropriate writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declare the seizure of Government IPK Paddy 15174.20 Qtls Own Paddy 23325 Qtls , Boiled Rice 500 Qtls, Brokens 80 Qtls worth totaling Rs. 5.71 Crores by the 3rd respondent conducted Panchanama dated 25-4-2016 is illegal, arbitrary, improper. Without any power or authority under law and violation of Article 19(1)(g) of the Constitution of India.

I.A. NO: 1 OF 2016(WPMP. NO: 19405 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased direct the Respondents to release the seized stocks of Government IPK Paddy 15174.20 Qtls Own Paddy 23325 ,Qtls , Boiled Rice 500 Qtls, Brokens 80 Qtls worth totaling Rs. 5.71 Crores by the 3rd respondent conducted Panchanama dated 25-4-2016.

Counsel for the Petitioner : SRI H.V.R.R.SWAMY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE K.SARATH

WRIT PETITION No.15695 of 2016

ORDER:

This petition is filed under Article 226 of the Constitution of India, seeking the following relief:

"... to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declare the seizure of Government IPK paddy 15174.20 Quintals, Own Paddy: 23325 Quintals, boiled Rice 500 Quintals, Broken Rice 80 Quintals, worth totaling to Rs.5.71 Crores by the 3rd respondent No.3 under Panchanama dated 25.04.2016 as illegal, arbitrary, improper, without any power or authority under law and violation of Article 19 (1) (g) of the Constitution of India...."

2. The learned Counsel for the petitioner submits that the *lis* in this Writ Petition is squarely covered by the Judgment of this Court in **Sri Sai Traders, rep. by its Proprietor and others Vs. Assistant Supply Officer, Circle-I, Vijayawada and others¹**. He further submits that the seizure of stocks in the

¹ 2006 (4) AIT 758

present case is prior to introduction of Clause 17 (e) of the Telangana State Public Distribution System (Control) Order, 2016 (for short 'the Control Order'), and that by the date of seizure, purchase of PDS rice from the cardholders is not an offence. He further submits that in **Maimuna Begum Vs. The State of Telangana rep. by its Chief Secretary²**, this Court held that purchase of PDS rice from the cardholders is not an offence.

3. Learned Government Pleader for Civil Supplies, representing the Government Pleader, submits that as per clause 17 (e) of the Control Order, any person, who is found to have purchased the rice supplied through Public Distribution System either from the card holders or from the F.P shop dealer or any other source, is liable for criminal action and imposition of penalty as may be fixed by the

² 2016 (5) ALT 280

the competent authority. However, he could not dispute that as on the date of seizure, purchase of PDS rice from the cardholders is not an offence entailing confiscation under 6-A of the Essential Commodities Act.

4. This Court in **Maimuna Begum's case (supra 2)** held as under:

" A careful reading of Clause 17(A) of Andhra Pradesh State Public Distribution System (Control) Order, 2008, shows that the same is attracted if a fair price shop dealer or cardholder or any person causes interruption or interferes with the smooth distribution of scheduled commodities under the public distribution system or other Government schemes at any level right from the Food Corporation of India godown to the fair price shop point, till the scheduled commodity reaches the intended beneficiary. From the unequivocal plain language of this provision, it is clear that it gets attracted when there is interruption of food grains from the stage of FCI godown till it reaches the end beneficiary i.e., cardholders. The provision does not comprehend any activity relating to any commodity falling under the Control Order, 2008 once it reaches the cardholder. There is no whisper either in the detention order or in the grounds of detention that any of the detenus is interrupting the smooth functioning of the scheduled commodities from the FCI godown point till it reaches intended beneficiary. On the contrary, the whole allegation against the detenus is that

they have been purchasing the PDS rice from the cardholders. Therefore, this activity of the detenus completely falls outside Clause 17(A) of the Control Order, 2008. Once there is no prohibition on such activity either under the 1995 Act or under the Control Order, 2008 which undisputedly is the only Order that governs distribution and control of rice meant for public distribution system, the detenus cannot be accused of committing any offence. As the respondents failed to show that the detenus have contravened the provisions of any other Control Order framed under Section 3 of the 1995 Act, the alleged activities of the detenus are not liable for any penal action. Once their activities do not constitute an offence under law, their preventive detention under the provisions of the 1980 Act cannot be sustained".

5. Following the judgment of this Court in **Maimuna Begum's case** (*supra* 2) and for the reasons alike, this writ petition is allowed. No order as to costs.

6. Miscellaneous applications, if any, pending in this Writ Petition shall stand closed.

That Rule Nisi has been made absolute as above.
Witness THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE, on this
Friday, The Twenty Ninth Day Of December
Two Thousand And Twenty Three

SD/- C. PRAVEEN KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

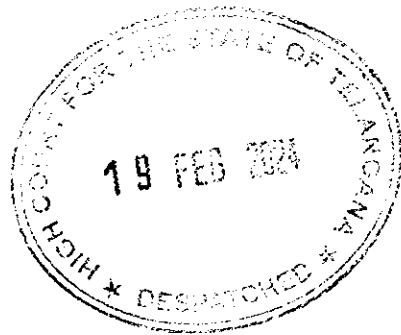
1. The Principal Secretary, Consumer Affairs, Food and Civil Supplies T.S. Secretariat Buildings State of Telangana, Hyderabad.
2. The District Collector, Nalgonda, Nalgonda District.
3. The Grain Purchasing Officer, Miryalaguda, Nalgonda District.
4. One CC to SRI H.V.R.R.SWAMY, Advocate. [OPUC]
5. Two CCs to GP FOR CIVIL SUPPLIES, High Court for the State of Telangana at Hyderabad. [OUT]
6. Two CD Copies.

BSK

 GJP

HIGH COURT

DATED:29/12/2023



ORDER

WP.No.15695 of 2016

**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

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7/2/24
Hw