

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

**TUESDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE T.MADHAVI DEVI

WRIT PETITION NO: 33023 OF 2013

Between:

Madhu Kumar, S/o. Venkateswarlu aged about 37 yrs Occ Business R/o
Church Road, Khammam, Khammam District

...PETITIONER

AND

1. Government of A.P. Rep by its Prl. Secretary, Food, And Consumer Affairs,
Department, Secretarial Buildings, Hyderabad.
2. The District Collector (Civil Supplies), Khammam District Khammam
3. The Assistant Supply Officer, District Supply Office, Khammam Khammam
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 a Writ, order or direction, one more particularly in the nature of a writ of Certiorari calling for the records in Criminal Appeal No.213 of 2010 on the file of the Principal Session Judge at Khammam and in MC No.123 of 2010 on the file of the 2nd Respondent and set aside the same as being illegal, arbitrary, and unconstitutional and beyond jurisdiction and consequently direct the respondents herein to release the bank guarantee furnished by the petitioner in favour of the Government for the value of the seized stock

I.A. NO: 1 OF 2013(WPMP. NO: 41083 OF 2013)

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 issue interim directions directing the respondents herein not to encash the bank guarantee submitted by the petitioner to the Government for the value of the seized stock, pending disposal of the above writ petition

I.A. NO: 1 OF 2014(WVMP. NO: 183 OF 2014)

Between:

1. Government of A.P. Rep by its Prl. Secretary, Food, And Consumer Affairs, Department, Secretariat Buildings, Hyderabad.
2. The District Collector (Civil Supplies), Khammam District Khammam
3. The Assistant Supply Officer, District Supply Office, Khammam Khammam District

...PETITIONERS/RESPONDENTS

AND

Madhu Kumar, S/o. Venkateswarlu aged about 37 yrs Occ Business R/o Church Road, Khammam, Khammam District

...RESPONDENT/PETITIONER

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 to vacate the interim orders granted in WPMP.No. 41083/22013 in WP.No. 33023 of 2013 dt. 19.11.2013

Counsel for the Petitioner: SRI. K HEMALATHA

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following: ORDER

HON'BLE SMT. JUSTICE T.MADHAVI DEVI

WRIT PETITION No.33023 of 2013

ORDER:

The present writ petition is filed by the petitioner challenging the order dated 24.08.2012 passed by the learned Principal Sessions Judge, Khammam in Criminal Appeal No.213 of 2010 against the order dated 05.07.2010 in M.C. No.123 of 2010 passed by 2nd respondent as illegal, arbitrary and unconstitutional and consequently to direct the respondents to release bank guarantee furnished by the petitioner for the value of the seized stock and to pass such other order or orders.

2. The pleadings in the writ petition are that the petitioner was the proprietor of M/s. Sri Sai Rama Rice and General Merchant, Church Road, Khammam District and has valid Form-B license for running the said business. It is submitted that on 09.10.2010, the respondent, along with Enforcement team intercepted the petitioner's lorry bearing No.AP 20 TA 1699 and on

verification of the stock in the said lorry, found that 200 quintals of PDS rice was being transported from Khammam illegally under the guise of "Cheeru" i.e., the mixture of lease quality broken rice and bran. It is further alleged that the rice is being transported without taking permission from the 2nd respondent and thereby violated Clause 7(a) (1) and (2), and Clause 16 of A.P. Rice Procurement (Levy Order), 1984. The respondent authorities therefore inspected the rice mill of the petitioner and conducted a panchanama on 20.10.2010 alleging that there is a variation in book balance when compared to ground balance with regard to shortage of 4.03 quintals of broken rice, 0.91 Kgs of paddy and also seized common variety of rice 3427 bags (each bag consists of 50 Kg). Therefore, the petitioner's explanation was called for and proceedings 6(a) under the Essential Commodities Act, 1955, were initiated against the petitioner. In response, the petitioner had explained that he has purchased the broken rice in the open auction

conducted by the Civil Supplies Authorities. However, the respondents observed that the price paid for the said 212.80 quintals of the rice is below the procurement price of Rs.1667/- per quintal, which indicates that the rice purchased in the open auction is not the quality rice to accept the same towards procurement price which is exclusively used for non-domestic purposes like poultry feed etc. and was unfit for human consumption. It was observed that the petitioner has not availed any permits for sale of levy free rice, out of his entitlement of 4,550 quintals of rice which arrived upon delivery of 18,200.00 quintals of levy rice in the crop year 2009-2010 and that the petitioner has no permission to transport the said seized rice of 212.80 quintals. The respondents therefore framed the following charges against the petitioner:

- (i) The petitioner tried to transport 212.80 quintals of common variety rice in the guise of Cheeru to Palakollu without any permit or authorization from the

Collector (CS), Khammam, and manipulated 2nd copy of the Tax Invoice Bill bearing No.22, dated 19.10.2010.

(ii) The petitioner possessed total 190.51 quintals common variety unauthorized excess rice stock, than the stocks of rice mentioned in both B and C Registers of his firm.

(iii) The petitioner failed to maintain true and correct accounts of his business firm.

Therefore, the charges were held for the above reasons and in spite of the manipulation of the 2nd copy of the Tax Invoice Bill, it was observed that the particulars filled in original bill which was produced at the time of seizure of lorry at Palakollu, and the second copy of the Tax Invoice Bill are totally different. It was observed that as per the provisions of the Andhra Pradesh Rice Procurement (Levy) Order, 1984, the petitioner shall not sell the rice which was acquired by way of open auction, into open market, without a valid permission from the competent authority and thus, there

is violation of the Clause 7(b) (2) of the Andhra Pradesh Rice Procurement (Levy) Order, 1984. Therefore, charges were held as proved against the petitioner and order of confiscation of 10% of the seized stocks to the Government and to release 90% of the seized stocks in favour of the petitioner herein was passed. Challenging the same, the petitioner preferred Criminal Appeal No.213 of 2010 before the learned Principal and Sessions Judge at Khammam and the lower Court has confirmed the order of confiscation of 10%. However, the appeal was dismissed and against the said order, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the authorities below have failed to observe that it is PDS rice which was purchased in the open auction held by the Civil Supplies Authorities and therefore, charges could not have been upheld as proof against the petitioner.

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4. Learned Government Pleader for Civil Supplies submits that the authorities have taken a lenient view and ordered confiscation of 10% of the seized stock and there is no reason for interference in this case.

5. Having regard to the rival contentions of the respective parties, this Court finds that there is no dispute that the petitioner has purchased the rice in the open auction held by the Civil Supplies Authorities. However, as observed by the authorities, the petitioner cannot sell the rice in the open market without permission from the competent authorities as the rice purchased in the open auction was not fit for human consumption. Therefore, the lower Court has rightly held that there is violation of the provisions of the Act and also compared to the particulars or details mentioned in the original Tax Invoice Bill and in the second copy of the Tax Invoice Bill, there is variation. As a result, this Court is also satisfied with the order of confiscation of 10% of total

seized stock is reasonable and justified and therefore, no further intervention is required.

6. Accordingly, the present writ petition is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.

SD/- MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

//TRUE COPY//

To,

1. The Prl. Secretary, Food, And Consumer Affairs, Department, Secretariat Buildings, Hyderabad.
2. The District Collector (Civil Supplies), Khammam District Khammam
3. The Assistant Supply Officer, District Supply Office, Khammam Khammam District
4. One CC to SRI. K HEMALATHA Advocate [OPUC]
5. Two CCs to GP FOR CIVIL SUPPLIES, High Court for the State of Telangana. [OUT]
6. Two CD Copies

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HIGH COURT

DATED:05/11/2024



ORDER

WP.No.33023 of 2013

**DISMISSING THE WRIT PETITION
WITHOUT COSTS**

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