

THE HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition No. 18574 of 2021

ORDER:

This writ petition is filed to issue a Writ of Mandamus declaring the action of the 3rd respondent in seizing 40 bags of raw rice weighing 50 Kgs. each belonging to the 1st petitioner and lorry bearing registration No.AP03 TC 2721 belonging to the 2nd petitioner under the cover of mediator report dated 24.07.2021, as illegal, arbitrary, without any authority of law and contrary to the provisions of the Essential Commodities Act, 1955 (for short 'the Act') and the Andhra Pradesh State Targeted Public Distribution System (Control) Order, 2018 (for short 'the Control Order, 2018') and set aside the same and direct the respondents not to take any action in pursuance of the illegal seizure.

2. The 1st petitioner claims to be the proprietor of Sri Balaji Trading Company and owner of Rice Mill at Srirampuram Village, Nakarikallu, Guntur District. The 2nd petitioner is the owner of Mini Lorry bearing registration No.AP03 TC 2721 and he is eking out his livelihood by running the same. The 3rd respondent, on mere suspicion that the vehicle was transporting the PDS rice, seized the vehicle along with the rice under mediator report dated 24.07.2021 and registered a crime as Crime No.321 of 2021 on the file of Markapur Town

P.S. for the offence under Section 420 r/w 34 I.P.C. and under Section 7 of the Act.

3. Sri V. Sudhakar Reddy, learned counsel for the petitioner, vehemently submits that the seizure of the vehicle along with stock by the 3rd respondent – Head Constable, Markapur Town Police Station is not authorized and not competent to seize the vehicle and the rice for the alleged offence. Even if the alleged offence is true, the police officer not below the rank of Sub-Inspector of Police is competent to seize and register the case for the alleged offence. The 3rd respondent – Head Constable is not competent to seize the rice or vehicle under Clause 20 of the Control Order, 2018. In support of his contention, he placed reliance on Clause 20(a) of the Control Order, 2018, which reads as under:

“Any officer or person authorized by the State Government or by the District Collector or by Collector (Civil Supplies) the appointing authority or any officer of the Civil Supplies/other State Government departments not below the rank of Revenue Inspector/Checking Inspector/Enquiry Inspector (Civil Supplies), or any Gazetted Officer of Vigilance and Enforcement Department of the State or any officer authorized in this behalf by the State Government not below the rank of a Sub-Inspector of Police, may enter the premises of the fair price shop or any private premises where the scheduled commodities pertaining to Targeted Public Distribution system or other Government schemes are kept/positioned or found in transit and conduct inspection and seize any stocks of scheduled commodities, supply documents or books, accounts or other related document for the purpose of such inspection/seizure for contravention of the provisions of this Order, Officers of Legal Metrology Department, Team of Social Audit appointed by Commissioner of Civil Supplies

are also empowered to inspect the fair price shop premises, in regard to weights and measures.”

He also placed reliance on the reported decision in *Sri Vigneswara Traders, Komerapudi Village, Sattenapalli Mandal, Guntur District, Rep. by its Proprietor-K.Gangadhara Reddy and another Vs. Circle Inspector of Police, Porumamilla Police Station, Kadapa District and two others*¹. He further submits that this Court following the said decision (1 supra) in W.P.No.9969 of 2021 dated 18.11.2021, set aside the police proceedings by declaring the seizure of stock and vehicle as illegal, arbitrary and without authority of law.

4. Having considered the facts and circumstances of the case, submissions of the learned counsel and on perusal of the record, this Court found that a reading of the provisions of Clause 20(a) of the Control Order, 2018 shows that it empowers only the police officer not below the rank of Sub-Inspector of the jurisdictional police station is competent to search and seize the stock on a reasonable suspicion that the stock being stored or transported is PDS rice. On such seizure, immediately he has to inform to the concerned officers to take appropriate action as per the provisions of the Control Order, 2018 and under the provisions of the Act.

5. In the case of *Sri Vigneswara Traders* (1 supra), this Court held that the seizure of rice and vehicle on the suspicion that the rice being transported in the vehicle was

¹ (2013) 4 ALD 241

PDS rice by the Head Constable is illegal and without jurisdiction.

6. In view of the decision in the case of *Sri Vigneswara Traders* (1 supra) and the order passed in W.P.No.9969 of 2021 dated 18.11.2021, this Court is not persuaded to take any different view to that of the above decisions. Hence, the seizure of the stock and vehicle by the 3rd respondent under Mediator report dated 24.07.2021 is declared as illegal, arbitrary and without authority of law and consequently the same is set aside.

7. Accordingly, the Writ Petition is allowed. No order as to costs.

8. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

JUSTICE M.GANGA RAO

09-12-2021
anr

THE HON'BLE SRI JUSTICE M.GANGA RAO

Writ Petition No. 18574 of 2021

09-12-2021

Anr