

**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**  
**AND**  
**THE HON'BLE SRI JUSTICE SRINIVAS VUTUKURU**  
**WRIT APPEAL No.635 OF 2022**

**ORDER:-**

Respondent Nos.1 to 3 in the writ petition are the appellants in the present Writ Appeal, filed under Clause 15 of Letters Patent. In the present appeal, challenge is to the order dated 16.03.2022 passed by the learned Single Judge in W.P.No.4689 of 2022.

2. Heard Sri D. Kasim Saheb, learned Government Pleader for Civil Supplies for the appellants and Sri Harish Kumar Rasineni, learned counsel for the respondents 1 and 2 and perused the material available on record.

3. Respondents 1 and 2 herein instituted the aforesaid Writ Petition, assailing the action of the 5<sup>th</sup> respondent in the writ petition i.e. Head Constable-716, Rayadurg Police Station, Ananthapuram District in seizing 71 bags of Rice and vehicle bearing No. KA 64 4566 pursuant to the seizure mahazarnama/Mediator's report dated 30.01.2022.

4. According to the writ petitioners, petitioner No.1 is carrying on business in rice and the writ petitioner No.2 is the owner of the subject vehicle. The 5<sup>th</sup> respondent in the writ petition, who is the respondent No.4 in the present appeal intercepted the subject vehicle and seized the rice

and vehicle on 30.01.2022 on the ground that the respondent Nos.1 and 2 were transporting the rice in an illegal manner and without any authorization.

5. Learned Single Judge, while referring to an order passed by this Court in W.P.No.18173 of 2019 dated 15.11.2019, passed an interim order, dated 16.03.2022, directing the authorities to release the subject stock and vehicle.

6. According to the learned Government Pleader for Civil Supplies, Sri kasim Saheb the order passed by learned Single Judge is highly erroneous and contrary to law and the learned Single Judge passed the interim order without taking into consideration the order passed by the Joint Collector vide proceedings in Rc.No.K11/122/2022 dated 04.03.2022. It is further stated by the learned Government Pleader that, on behalf of the department, the 5<sup>th</sup> respondent in the writ petition had taken action strictly in accordance with law.

7. Strongly resisting the writ appeal, it is contended by Sri Harish Kumar Rasineni, learned counsel for the respondent Nos.1 and 2/writ petitioners, that there is absolutely no error nor there exists any infirmity in the order passed by the learned Single Judge and in the absence of the same, the questioned order is not amenable

for any judicial review under Clause 15 of the Letters Patent.

8. It is further submitted by the learned counsel that the orders passed by the learned Single Judge in various writ petitions, including the one referred in the impugned order, have attained finality, as such, no interference of this Court is warranted.

9. The principal contention advanced by the writ petitioners in the writ petition is that the impugned action on the part of the Head Constable, 5<sup>th</sup> respondent in the writ petition, suffers from inherent lack of jurisdiction and the action impugned in the writ petition is in contravention of clause 20 of the Andhra Pradesh State Targeted Public Distribution System (Control) Order 2018.

10. In this context, it may be appropriate to refer to Sub-Clause (a) of Clause 20 of the said (Control) Order, 2018, which reads as follows:-

*“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 the behalf of 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 are also empowered to inspect the Fair Price Shop/nominated retailer/hawker premises, in regard to weights and measures.”*

11. There is absolutely no controversy with regard to the Rule provision. The said provision of law does not authorize the Head Constable, who inspected and seized the stocks under the aforesaid provision of law. In fact, when a similar issue fell for consideration before the composite High Court, the composite High Court in the case of **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**<sup>1</sup> allowed the writ petition holding that the very seizure was illegal and without jurisdiction and further directed the respondents

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<sup>1</sup> (2013) 4 ALD 241

therein to refrain from taking any further action for initiation of proceedings under the provisions of Section 6-A of the Essential Commodities Act (for short “the Act”) and also further directed to release the seized stocks along with the vehicle with costs.

12. In fact, following the aforesaid order, learned Single Judge of this Court allowed the W.P.No.18173 of 2019 and 9969 of 2021 by way of orders dated 15.11.2019 and 18.11.2021. Copies of the said orders are also placed on record.

13. The contention of the learned Government Pleader that the Joint Collector and the Additional District Magistrate issued a show cause notice initiating proceedings under the provisions of 6-A of the Act, in the considered opinion of this Court, is of no consequence at all, when this Court, in the writ petitions, referred to supra, categorically found that the very seizure was illegal and without jurisdiction.

14. In view of these reasons, the order passed by the learned Single Judge which is impugned in the present Writ Appeal, by any stretch of imagination, cannot be faulted and this Court does not find any valid reason to interfere with the order impugned in the writ appeal.

For the aforesaid reasons, the Writ Appeal is dismissed. No costs.

The miscellaneous Petitions pending, if any, in this Writ Appeal shall stand closed.

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**JUSTICE A.V.SESHA SAI**

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**JUSTICE SRINIVAS VUTUKURU**

Date:08.08.2022

**Note:-**

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