

(2021) 09 TEL CK 0028
In the Telangana High Court
Case No : Writ Petition No. 23425 Of 2021
Mohd Azam VsState Of Telangana

Date of Decision : 23-09-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 19, 21
Essential Commodities Act, 1955 — Section 6A

Citation : (2021) 09 TEL CK 0028

Hon'ble Judges : P.Naveen Rao, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Heard Mr. K Venumadhav, learned counsel for petitioner and learned Government Pleader for Civil Supplies for respondents.

2. This writ petition is filed seeking following relief:

".....to issue an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ declaring the seizure of the stock of rice 130.35 quintals and 89.35 quintals of rice of the petitioner No 1 the vehicle Goods Carrier of Eicher Motors No AP 24 W 4314 of the petitioner No 2 and the vehicle Goods Carrier of Tata Engg and Loco Co No AP 29 T 0516 of the petitioner No 3 through panchanama dated 09.09.2021 by registering a 6A case under Essential Commodities Act and not releasing the said stock of rice and vehicles in favour of the petitioners even though the petitioners have not committed any irregularities or illegalities is nothing but arbitrary illegal null and void and violative of principles of natural justice and also violative of Articles 14, 19 and 21 of the Constitution of India the same maybe set aside Consequently direct the respondents to release the stock of rice of 130.35 quintals and 89.35 quintals of rice in favour of the petitioner No 1 the vehicle Goods Carrier of Eicher Motors No AP 24 W 4314 in favour of the petitioner No 2 and the vehicle Goods Carrier of Tata Engg and Loco Co No AP 29 T 0516 in favour of the petitioner No 3 seized through panchanama dated 09092021 and to pass..."

3. In this writ petition, petitioners are challenging the seizure of 130.35 and 89.35 quintals of rice of first petitioner, vehicle bearing registration No AP 24 W 4314 of second petitioner and vehicle bearing registration No AP 29 T 0516 of the third petitioner as illegal.

4. It appears that rice and vehicles were seized on the ground that petitioners purchased PDS rice from the card holders, therefore, liable for penal action.

5. Both counsel agreed for disposal of the Writ Petition with direction to conclude the proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act, 1955') expeditiously.

6. Therefore, the respondents are directed to finalize proceedings under Section 6-A of the Act, 1955 expeditiously preferably within a period of eight weeks from the date of receipt of copy of this order. However, pending finalization of Section 6-A proceedings, as rice is a perishable item, respondents are directed to release the stock of rice subject to first petitioner furnishing fixed deposit receipt to the extent of 50% of the value of stock quantified by competent authority and personal bond for remaining 50%. If the confiscation proceedings end in confiscation of rice, it is open to the Collector to adjust the amount in the fixed deposit. If any additional amount is due from the first petitioner after adjusting the amount in the fixed deposit, it is open to the Collector to take steps to recover the balance amount.

7. Enquiry under Section 6-A of the Act, 1955 and investigation/prosecution into the crime registered against petitioners may take considerable time. Meanwhile, as the vehicles are kept in the open yard exposed to sun and other weather conditions and kept idle, road worthiness of the vehicle may be severely affected. At the same time, as the vehicles are involved in a crime and violated statutory regulations, it can not be handed over to the owner even before proceedings are concluded. Such course may bolster the offender to commit further offences and is not in public interest. In the circumstances, the Court has to balance respective claims and take due note of public interest. In the given facts Court is inclined to opt a middle path.

8. In view of the same and having regard to the facts and circumstances of the case, following directions are issued on releasing the motor vehicle:

(a) The petitioners 2 and 3 shall furnish fixed deposit receipt as proof of opening of fixed deposit account for 50% of the amount of the value of the each of the vehicles as assessed by the Assistant Motor Vehicle Inspector/or bank guarantee for the equal sum;

(b) Petitioners 2 and 3 shall furnish an undertaking in writing that they will not alienate or change the physical features of the vehicles and shall produce the vehicles as and when directed by the competent authority;

(c) If petitioners 2 and 3 do not produce the vehicles as required by the competent authority or vehicles are not traceable after the confiscation orders

are passed, it is open to the competent authority to request the police and/or the Transport Department authorities to seize and handover possession of the vehicles to the competent authority;

(d) Petitioners 2 and 3 shall furnish the copies of R.C. Book of the vehicles and driving licences of the drivers;

(e) The 2nd respondent/the Collector, Siddipet District, shall write to the RTA authorities not to entertain any application to transfer the vehicles in question on any third party's name without clearance from the Civil Supplies Department;

(f) The release of the vehicles shall be subject to the orders that may be passed in the enquiry under Section 6-A of the Act, 1955/prosecution of Crime No.99 of 2021.

The writ petition is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed.