

(1989) 02 MAD CK 0027

In the Madras High Court

Case No : Writ Petition No. 10155 of 1988

S. Krishnamurthi

APPELLANT

Vs

District Revenue Officer, Cuddalore and another

RESPONDENT

Date of Decision : 03-02-1989

Acts Referred:

Constitution of India, 1950 — Article 226
Essential Commodities Act, 1955 — Section 6

Citation : AIR 1990 Mad 19 : (1989) 1 LW 526

Hon'ble Judges : Bakthavatsalam, J

Bench : Single Bench

Advocate : V. Balakrishnan, for the Appellant; N. Sridharan, for the Respondent

Judgement

Bakthavatsalam, J.—The prayer in the writ petition is as follows :

.....to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of writ, directing the first respondent herein to return

the 201 bags of paddy (each 60 kilos) seized by the second respondent from the lorry TCJ 1215 on 31-8-1988 to the petitioner.....

2. Notice of motion has been ordered by Sivasubramaniam, J. on 5-9-1988. While ordering notice of motion returnable on 12-9-1988, the

learned Judge ordered that the paddy seized from the petitioner shall not be sold if they are still available. This order was made on 5-9-1988.

3. The learned Government Advocate appears before me with instructions.

4. By consent of parties, the main writ petition itself is taken up for disposal today.

5. It seems that 201 bags of paddy were seized from the lorry bearing No. TCJ 1215 on 31-8-1988, by the District Supply Officer, Cuddalore,

who was accompanied by the Special Tahsildar, Roving Squad near

Kandamangalam, Kattumannarkoil Taluk. After obtaining a mahazar and statements from the driver and the cleaner of the lorry and finding that the stock was intended to be transported to Dindigul without any valid permit, the entire 201 bags of paddy were seized. It is not represented by the learned Government Advocate, that the paddy seized has been ordered to be distributed to the Public Distribution System as the stay granted by this court was operative only till 12-9-1988. I am also informed that action has been taken under S. 6B of the Essential Commodities Act, 1955 and notice has also been issued to all the persons under the Act.

Since the paddy seized has been already handed over to the Public Distribution System and notice has been issued under S. 6B of the Essential Commodities Act, 1955, I do not think it possible to issue a writ of mandamus at this stage as prayed for. As such, I direct the respondents to proceed with the enquiry under S. 6B of the Essential Commodities Act, 1955, and pass final orders within four weeks from today.

6. Before parting with the case, it is necessary for me to point out that the handing over of the paddy seized to the Public Distribution System by the respondent is wholly unwarranted. When this Court has ordered notice of motion returnable by 12-9-1988, the respondents have misunderstood the order as if stay is in operation only up to 12-9-1988. What Sivasubramaniam, J. ordered was a notice of motion returnable by 12-9-1988 and in the meanwhile the paddy seized from the petitioner shall not be sold if they were still available. The learned Government Advocate informs the court that notice has been taken on behalf of the respondents in the admission court and a phonogram was also given to the concerned officers on 5-9-1988, itself. When such is the case, I am unable to understand as to how the officers can take the law in their own hands and proceed to hand over the paddy seized to the Public Distribution System. When notice of motion has been issued under certain conditions, it is highly improper on the part of the officers concerned to hand over the seized paddy to the Public Distribution System. I feel it is a very high-handed action on the part of the authorities to have disobeyed the orders of this Court in this fashion. If they are not able to understand the order of the court, they should have contacted the law office and taken instructions with regard to the steps which they have to take in the

matter. Without doing so, the officers concerned have no business to take a decision for themselves over the Court's order and hand over the seized paddy to the Public Distribution System. In view of the illegal action of the authorities, the petitioner is not able to get the relief of the return of the paddy seized as asked for by him in the writ petition. It is true that paddy may get deteriorated if it is stocked for a long time. But in this case, the seizure is only on 31-8-1988 and the order of this Court was on 5-9-1988 returnable by 12-9-1988 and the officers cannot take a plea that the paddy will get deteriorated. This sort of attitude on the part of the officers has to be taken note of by the concerned superiors and put them under check and instruct them how to obey the orders of the highest court of the State. Though I am dismissing the writ petition, I am constrained to award costs to the petitioner. In view of the irresponsible, illegal and high-handed action of the officers concerned, the petitioner is entitled to costs of Rs. 3,000/- and the costs will be recovered from the delinquent officers concerned. With these observations, the writ petition is dismissed with costs Rs. 3,000/ -.

7. Petition dismissed.