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**(2015) 07 AP CK 0095**

**In the Andhra Pradesh High Court**

**Case No : W.P. Nos. 25151 and 22964 of 2011**

|                                                        |            |
|--------------------------------------------------------|------------|
| Sri Seetharamanjaneya Swamyvari Seva Sangam            | APPELLANT  |
| Vs                                                     |            |
| Superintending Engineer (Operation) APSPDCL and Others | RESPONDENT |

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**Date of Decision : 16-07-2015**

**Acts Referred:**

Food Safety and Standards Act, 2006 — Section 3(j)

**Citation :** (2016) AIR (AP) 71 : (2015) 6 ALD 606

**Hon'ble Judges :** C.V. Nagarjuna Reddy, J.

**Bench :** Single Bench

**Advocate :** S. Madhavi for K. Aruna, for the Appellant

**Final Decision :** Dismissed

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## **Judgement**

C.V. Nagarjuna Reddy, J.—As both these writ petitions involve common issues, they are heard and being disposed of together. The petitioners averred that they have established Water Purifying Systems for supplying purified drinking water to the residents of the surrounding areas without profit motive. They feel aggrieved by the action of the respondents in seeking to interfere with their activity and sale of the purified drinking water. The main plea on which they have filed these writ petitions is that they have not been supplying packaged drinking water within the meaning of Rule 49(28) of the Prevention of Food Adulteration Rules, 1955 and that therefore they need not obtain Bureau of Indian Standards (BIS) certification.

2. In WP No. 22964 of 2011, the Divisional Electrical Engineers (Operation), APSPDCL, Markapuram, Prakasam District filed a counter-affidavit, wherein it is inter alia stated that in WP No. 13456 of 2011, this Court has passed interim order directing the District Collector, Prakasam District to take necessary steps to stop illegal and unauthorized activities of manufacture and sale of packaged drinking water without obtaining ISI Certificate from the BIS and that in obedience to the said order, the District Collector has issued letter, dated 4.7.2011, to the General Manager, District Industries Centre, Prakasam District

who in turn has issued letter bearing No. 2563/F/2011, dated 6.7.2011, directing him to disconnect the power connection and report compliance.

3. Section 3(j) of the Food Safety and Standards Act, 2006 defined "food" as including packaged drinking water and any substance, including water used into the food during its manufacture, preparation or treatment. Rule 49(28) of the Prevention of Food Adulteration Rules, 1955 prohibits any person from manufacturing, selling or exhibiting packaged drinking water except under the BIS certification. Item A33 of Appendix-B of the said Rules defined "packaged drinking water" as water derived from any source of potable water or sea water or underground water or surface water which may be subjected to the treatments, namely, decantation, filtration, combination of filtration, aerations, filtration, demineralisation, remineralisation, reverse osmosis and packaged.

4. The only ground on which the petitioners are claiming exemption from obtaining BIS certification is that though they are processing water by following reverse osmosis method, they are supplying water through unsealed water cans which do not fall within the meaning of the word "packaged" under Rule 49(28) of the Rules.

5. I have carefully considered this plea. The word "packaged" is not defined by the 1954 Act or 2006 Act or the Rules made thereunder. The dictionary meaning of "package" includes container Oxford Dictionary Thesaurus and Word Power Guide. Therefore, not only a sealed bottle or sachet, but even an unsealed container falls within the meaning of "package".

6. The law is well settled that in order to give effect to the legislative intention, the provisions of the statutory enactments need to be construed in a manner which would advance the intended object rather than to frustrate it (See *United Bank of India Vs. Sidhartha Chakraborty*, and *Shiveshwar Prasad Narain Singh and Another Vs. Ghurahu and Another*, ).

7. In my opinion, the language of Item A33 of Appendix-B shall not be so liberally construed as to render the provision itself otiose. The legislative object in prescribing BIS certification for sale of drinking water is to ensure that the water sold to the public shall conform to the safety standards prescribed under the Prevention of Food Adulteration Act, 1954 which is substituted by the Food Safety and Standards Act, 2006 and the Rules made thereunder. A person involved in the manufacturing of water claiming the same as purified drinking water cannot claim exemption only by the reason of his not selling the water in a particular form. If such claim for exemption is accepted, no action against any manufacturer of purified drinking water who sells water other than in a sealed form, as in the present case, could be taken under the Act.

8. If the persons carrying on business of manufacturing or selling of purified drinking water, sell the same through water cans, still they are liable to take out BIS certification as a can is a container which falls within the dictionary meaning of "package". Otherwise, public interest would be seriously jeopardized, as the

health of the people at large would be put at great risk.

9. For the above-mentioned reasons, I do not find any illegality in the action of the respondents in disconnecting/proposing to disconnect the power supply to the premises of the petitioners so long as they continue to use the electricity for manufacture of purified drinking water without BIS certification.

10. The writ petitions, therefore, fail and the same are accordingly dismissed. As a sequel to dismissal of the writ petitions, the interim orders, if any, shall stand vacated and the pending interlocutory applications shall stand disposed of as infructuous.