

IN THE HIGH COURT OF KARNATAKA AT
BENGALURU

DATED THIS THE 31ST DAY OF DECEMBER, 2015

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

WRIT PETITION No. 59509 OF 2015 (GM-RES)

BETWEEN:

Sree Gopalakrishna Rice Mills,
Veerapura, Bhadra Colony Post,
Bhadravati 571 301,
Shimoga District,
By its Partner:
Sri. Ramesh Kumar,
Aged about 56 years.

...PETITIONER

(By Shri T. Basavaraj , Advocate)

1. The State of Karnataka,
By its Secretary,
Department of Food and Civil
Supplies and Consumer Affairs,
Vikas Soudha,
Bangalore – 560 001

2. The Commissioner,
Department of Food and Civil
Supplies and Consumer Affairs,

Government of Karnataka,
No.8, Cunningham Road,
Bangalore – 560 052

3. The Deputy Commissioner,
Shimoga District,
Shimoga 577 201.
4. The Managing Director,
Karnataka Food and Civil Supply
Corporation Ltd.,
No.16/1, Miller Tank Bed Area,
Bangalore – 560 052
5. The District Manager,
Karnataka Food and Civil Supply
Corporation Limited,
Shimoga District,
Shimoga 577 201.

...RESPONDENTS.

(By Shri R.B.Sathyaranayan Singh, Advocate for Respondent Nos.4 and 5;
Shri E.S.Indiresh, Additional Government Advocate for Respondent Nos. 1 to 3)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the communication issued by the first respondent dated 27.9.2014 vide Annexure-D and also quash the circular issued by the second respondent dated 31.12.2013 vide Annexure-E and etc;

This writ petition coming on for preliminary hearing this day, the Court made the following:

ORDER

The petition coming for preliminary hearing, is considered for final disposal, since it is stated at the Bar that similar matters have been entertained and allowed by this Court.

2. The learned Additional Government Advocate does not dispute the position.

3. The petitioner is a Rice Miller carrying on the business in rice and paddy. As per the Karnataka Rice Milling (Regulation) Rice and Paddy Procurement Levy Order, 1999, (hereinafter referred to as 'the Regulation', for short) the first respondent had issued a notification dated 8.1.2014 for procurement of levy rice from the rice millers for the year 2013-14. On the basis of the first respondent's order, the third respondent had fixed the levy price to the rice mill of the petitioner and on that basis, the petitioner had surrendered several quintals of rice as levy with the fifth respondent. In the

meanwhile, the Central Government, on 15.2.2002, has made an amendment to the Essential Commodities Act, 1955, by which the Central Government has chosen to remove all restrictions on purchasing and movement of paddy from anywhere in India. On the basis of that amendment, there was no restriction for the petitioner to purchase the paddy anywhere in India. It is stated that as per Clause-3 of the Regulation, the petitioner was required to surrender the levy as fixed by the State Government and Sub-Clause (1) of Clause (3) reads as follows:

“Clause 3 – Miller or Dealer to sell Rice : -

(1) Every Miller or Dealer shall sell to the State Government or its designated agent 33.33% of the quantity. Now it has been amended as 25% of the quantity of each variety of rice confirming to specifications, obtained from hulling of the paddy on his account, every day from the commencement of this order.”

4. It is stated that before receiving the levy rice from the petitioner, the fifth respondent as per Sub-Clause 10 of Clause 3

of the Regulation has verified the rice and after satisfying, accepted the surrendered rice and there was no objection raised by the fifth respondent in this regard. However, it is stated that due to non-payment of levy rice amount after receiving the levy rice from the petitioner, the petitioner approached the fifth respondent and requested to release the balance levy rice amount of Rs.5,79,866/-. On behalf of the petitioner, the State Rice Miller Association also had made a representation to the respondents. Since the amount was not released, some of the rice millers filed writ petitions before this Court seeking a writ of mandamus against the respondents to release the amount due to the petitioners therein with regard to surrender of levy rice.

During the course of arguments, respondent Nos.4 and 5 produced a communication dated 27.9.2014 made by the first respondent to respondents 2 and 4 stating that the levy rice amount fixed per quintal by the Government had to be paid to the rice millers who have produced the minimum support price certificate. Admittedly, the levy rice was surrendered by the

petitioner as per the order of the first respondent dated 8.1.2014, under which there was no embargo on the petitioner in getting the levy price fixed by the Government or to produce minimum support price certificate. It is stated that either under the Regulation or under the Essential Commodities Licence Order, 1986, the respondents were authorised to impose any condition other than those mentioned therein. It is only on the mere communication made by respondent No.1 to respondent Nos.2 to 4, the respondents are seeking to withhold the amount of the petitioner. It is further stated that the second respondent, on 31.12.2013, contrary to the Regulation had issued a Circular with a direction to the Deputy Directors of the Districts to verify the paddy purchased by the millers from the farmers of the State at the minimum support price and that the rice millers were to get the said certificate from the Deputy Commissioner of the District. As per the Regulation, whatever the paddy hulled by the rice millers were to be surrendered for the levy as fixed by the Government. Hence, it is stated that the Circular

of the second respondent would not have any force in law and that respondent No.5 has no authority to withhold the amount of the petitioner. It is stated that the Government has taken a policy decision to give minimum support price to the farmers during the distress sale and entered the open market to purchase food grains from the farmers and that there was no embargo for the petitioner to purchase paddy from the farmers at the minimum support price fixed by the Government. The minimum support price was fixed only to ensure that the farmers should not be put to difficulty during distress sale. The definition of 'minimum support price' as defined in the National Food Security Act, 2013, is as follows:

"Minimum support price means the assured price announced by the Central Government at which food grains are procured from farmers by the Central Government and the State Governments and their agencies for the Central Pool."

5. It is stated that a reading of the definition would show that it is only applicable to the Government Agency and not to private traders or rice millers and as such the Communication

and Circular of respondents 1 and 2 would have no bearing on the petitioner and it is further stated that in spite of the petitioner already having submitted the minimum price certificate before the fifth respondent, the fifth respondent has refused to release the amount withheld by him in a sum of Rs.5,79,866/- . It is in this background that the present petition is filed.

6. In the case of *Santhosh Enterprises v/s. The State of Karnataka and others (W.P.1354/2015 disposed on 10.9.2015)*, while addressing the similar circumstance and the additional requirement to produce the certificate for having procured the paddy/rice from farmers of the State along with minimum support price certificate, this Court has opined that it would have to be assumed that the minimum support price certificate had been issued by the third respondent after satisfying about the compliance of such requirement by the petitioner therein and it has been opined that production of minimum support price certificate would suffice for the

respondent authorities to release the amount. As contended by the petitioner herein, the subsequent Regulations or directions would have no bearing insofar as the petitioner is concerned.

Therefore, on production of the minimum support price certificate along with his representation for release of the balance amount by the petitioner, the respondents shall consider and release the amount in favour of the petitioner with expedition, in any event within a period of two weeks from the date of such representation. The petition is accordingly disposed of.

**Sd/-
JUDGE**

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