

HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

WRIT PETITION No.16123 of 2023

ORDER:

The present writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“...to issue an appropriate writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents particularly the 2nd respondent issuing the impugned orders dated 05/06/2023 directing the petitioner to remit the penalty amount of Rs.6,08,000/- within one month for permitting the Fair Price Shop dealer to lift and distribute the essential commodities to the cardholders failing which his authorization will be liable to be cancelled, without considering the explanation dated 20/08/2022 submitted by the petitioner as being arbitrary, illegal, discriminatory, malafide and violation of the Constitutional Guarantees and to consequently set aside the impugned proceedings in the interest of justice and to pass....”.

2. Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies appearing for the respondents.

3. Learned counsel for the petitioner submits that the petitioner is the authorized Fair Price Shop Dealer for Shop No.0734034, and submits that a penalty was imposed @ Rs.6,08,000/- against the petitioner, which is contrary to the Control Orders and exorbitant as the respondents have no authority or power to impose such huge amount of penalty for the variation found by the inspecting

officers. He further submits that the entire stock was kept in another place, because the subject premise is not feasible to accommodate such large extent of stock supplied by the respondent. Without considering the submission of the petitioner, the respondents unilaterally came to a conclusion that the entire stock was shifted to black market and imposed such penalty, without considering the explanation made by the petitioner is arbitrary and high-handedness on the part of the respondents. Hence, the writ petition.

4. On the other hand, learned Government Pleader for Civil Supplies submits that the penalty was imposed by the 2nd respondent at Rs.6,08,000/- as per clause 21(c) of APSTPDS (Control) Orders, 2018. He further submits that the respondents found variations of 8235 Kgs. of Sortex Rice and 8900 Kgs of MDM Sortex Rice which amounts to a total of 17135 Kgs of rice under variation. Because of huge quantity of variation in rice it is calculated at the rate fixed by the respondents at which they acquired. Further, it is submitted that only the calculated value is imposed as penalty, even though the respondents are permitted to impose penalty of ten times to value of variation of stock. He further submits that the petitioner can avail statutory alternative remedy against the orders of the 2nd respondent dated 05.06.2023 before the appellate authority i.e., the 3rd respondent herein. For

which, the learned counsel for petitioner also agreed to file an appeal before the appellate authority.

5. Having regard to the submissions made by learned counsel for the petitioner as well as learned Government Pleader for Civil Supplies appearing for respondents, this Court is of the considered view that the present Writ petition can be disposed of directing the petitioner to approach the appellate authority by filing an appeal within a period of two (02) weeks and after filing such an appeal, the 3rd respondent is directed to consider the same and pass appropriate orders, after providing an opportunity of hearing to the petitioner within a period of four (04) weeks thereafter. No order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in the Writ Petition shall stand closed.

VENKATESWARLU NIMMAGADDA, J

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