

P.Laxmi Narasaiah vs The State Of Telangana on 22 June, 2021

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.13728 OF 2021

ORDER:

This writ petition is filed seeking to declare the order in proceeding bearing Rc.No.1/T & G/NLG dated 05.06.2021 of respondent No.2 and imposing penalty of Rs.2 lakhs to the petitioner as illegal and arbitrary.

2. It is the case of the petitioners that the petitioner No.1 is doing business under the name and style of M/s.Aum Traders, situated at Nalgonda. On 23.04.2021, respondent No.3 inspected his business premises and seized some gunny bags containing V1 scented chewing tobacco worth of Rs.7,67,091/-, which was purchased from Sai Enterprises Tumkur, Karnataka State through invoice bearing No.2021-22/SAIo467, dated 21.04.2021. On 05.06.2021, he received a call from respondent No.3 to pay an amount of Rs.2,00,000/- penalty for doing tobacco business. He approached respondent No.2 who is an adjudicating officer under Food Safety Act and that respondent No.2 imposed a penalty of Rs.2,00,000/-.

3. Heard both sides.

4. The record placed before this Court reveals that on 23.04.2021, the 3rd respondent Food Safety Designated Officer, Nalgonda District conducted raids in the premises of the petitioners and found prohibited Tobacco products worth Rs.18,30,000/- and seized the same as per the provisions of Section 30(2)(e) of Food Safety and Standard Act, 2006 read with regulations 2.3.4 of FSS (Prohibition and restriction on sales) Regulation 2011 for human consumption. The 3rd respondent drafted the panchanama and obtained the signature of the 1st petitioner.

5. The petitioner also attended the personal hearing before the 2nd respondent on 24.05.2021 and requested to release of seized stock. On considering the material available on record, the 2nd respondent came to the conclusion that the petitioner has violated the ban orders and therefore instructed to discard the seized prohibited tobacco products and imposed a fine of Rs.2 lakhs.

6. It is open for the petitioner to produce evidence before the concerned authorities to show that the seized material is not prohibited by the Government and it is fit for human consumption. It is categorically stated in the impugned order that the seized products are RR Tobacco, V-1 Tobacco, Amber Tobacco, Masth Tara, Ratna Brand Tobacco, SR-1 Tobacco, Banarsi and RR Boss. The petitioner has not filed any application before the respondent authorities to send the samples to the Forensic Science Laboratory to test the same to know whether the samples contained any prohibitory material. The Government issued G.O.Rt.No.493, dated 26.06.2021⁵ designating the Principal District and Sessions Courts as Food Safety Appellate Tribunals for the trial and disposal of cases filed under the said Act.

7. The petitioner without availing the efficacious alternative remedy under the Food Safety Act, 2006, by filing an appeal before the Principal District and Sessions Judge, Nalgonda, approached this Court under Article 226 of the Constitution of India. This Court cannot entertain the request of the petitioner while sitting under Article 226 of the Constitution of India and cannot decide whether the seized products contain the prohibited material or not.

8. Accordingly, the writ petition is dismissed. No order as to costs. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

_____ T.AMARNATH GOUD,J Date: 22.06.2021.

Shr