

Dwarampudi Sivarama Reddy vs The State Of Andhra Pradesh on 5 January, 2022

Author: R. Raghunandan Rao

Bench: R. Raghunandan Rao

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

WRIT PETITION No.29757 of 2021

ORDER:

The petitioner is carrying on business in Tobacco products. As the respondent authorities were interfering with the said business, he had approached this Court by way of W.P.No.8998 of 2021. This Court by an order dated 30.04.2021 had directed the authorities not to interfere with the business of the petitioner in view of the expiry of the earlier notification dated 08.01.2021.

2. The respondent Nos.5 and 6 had seized the tobacco products including 29 bags of scented Tobacco on 07.12.2021 from the premises of the petitioner. Aggrieved by the said seizure, the petitioner has approached this Court by way of the present writ petition.

3. The case of the petitioner is that in view of the earlier orders of this Court and in view of the fact that no criminal complaint or crime has been registered against the petitioner, the action of respondent Nos.5 and 6 is clearly without jurisdiction and has to be set aside.

4. The learned Government Pleader for Medical and Health submits that the earlier orders of this Court would not be available to the petitioner in as much as a fresh notification has already been issued on 06.12.2021. He further submits that under the new notification, it would be open to the Food Safety Officer under the provisions of the Food Safety and Standards Act, 2006 to seize the said tobacco products.

5. The fact remains that respondent Nos.5 and 6 who are police officers are not empowered to seize the tobacco products available with the petitioner under the Food Safety and Standards Act, 2006 or under the notification on 6.12.2021. Further, any such seizure, at the least, would have to be under a formally registered complaint. In the present case, the seizure of the tobacco products by the respondent Nos.5 and 6 has to fail on both these grounds.

6. Accordingly, this writ petition is allowed directing the respondent Nos.5 and 6 to release the tobacco products of the petitioner forthwith. However, this order shall not preclude the 7th respondent from taking such steps as deemed fit as per the notification dated 06.12.2021. There shall be no order as to costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

_____ R. RAGHUNANDAN RAO, J.

05.01.2022 SDP HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO WRIT PETITION No.29757 of
2021 05-01-2022 SDP