

(2013) 07 AP CK 0003

Andhra Pradesh High Court**Case No:** Criminal R.C. No. 1305 of 2013

Gopal Naidu A. and Others

APPELLANT

Vs

State of Andhra Pradesh and
OthersRESPONDENT

Date of Decision: July 5, 2013**Citation:** (2013) 2 ALD(Cri) 474**Hon'ble Judges:** K.G. Shankar, J**Bench:** Single Bench**Advocate:** Kothapalli Ram Mohan Chowdary, for the Appellant;

Judgement

K.G. Shankar, J.

The petitioners are farmers. On 5.8.2009, the Tahsildar, Tadipatri, along with other officers of the Civil Supplies Department surprised the premises of the 1st petitioner and found 180 bags of red-gram weighing 72 quintals worth Rs. 2,16,000/-. Considering that the petitioners violated the Andhra Pradesh Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order, 2008 (the Control Order, 2008, for short), the Joint Collector, Anantapur, ordered confiscation of 90% of the stock available. Aggrieved by the same, the petitioners preferred an appeal before the learned Sessions Judge, Anantapur. The learned Sessions Judge through the impugned order reduced the quantum of confiscation to 20%. Questioning the same, the present revision is laid. It is the case of the petitioners that the petitioners 2 and 3 are farmers as much as the 1st petitioner and that the petitioners 2 and 3 have stored 72 quintals of red-gram belonging to them raised in their crops in the house of the 1st petitioner on account of lack of godown facility. They claimed that as they are the owners of the property, the property cannot be confiscated.

2. It is the case of the learned Counsel for the petitioners that the petitioners 2 and 3 own large extents of land and have grown the red-gram in their lands and that they are exempt by virtue of clause 2(k)(iv) of the Control Order. Clause 2(k)(iv) of the Control Order envisages that "a dealer in relation to food grains" is a person

engaged in business of purchase, sale or storage of food grains and that such a dealer can store food grains mentioned in Schedule-I to an extent of 20 quintals and all food grains to an extent of 50 quintals only without permission and that the definition does not include any farmer, agriculturist or a ryot.

3. It is the case of the petitioners that both the petitioners 2 and 3 are farmers indulging in raising the red-gram. They filed adangal extracts showing that the petitioners 2 and 3 have been indeed raising red-gram in their lands apart from groundnut. The adangals also show the extent of lands owned by both the petitioners 2 and 3. They have also furnished their explanation to the show-cause notice issued by the Joint Collector that the red-gram found in the house of the 1st petitioner belongs to them. Where the petitioners 2 and 3 have proved that they possess extensive agricultural lands and also show that they have been growing red-gram apart from groundnut, their defence deserves to be accepted. Even otherwise, if the petitioners 1 to 3 or the petitioners 2 and 3 own the confiscated property, the total extent is 72 quintals whereas each of them would have been entitled to store upto an extent of 50 quintals without proper permit.

4. Viewed in any angle, the petitioners have not violated the terms of the Control Order. Consequently, the order of the learned Sessions Judge that the petitioners violated the provisions of the Control Order is not justified. Accordingly, this criminal revision case is allowed. The judgment of the appellate Court is set aside. The order of the learned Joint Collector ordering confiscation is set aside holding that the petitioners have not violated the terms and conditions of the Control Order.