



HIGH COURT OF ANDHRA PRADESH
WEDNESDAY ,THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY TWO

PRSENT

THE HONOURABLE SRI JUSTICE A V SSHA SAI
WRIT PETITION NO: 27885 OF 2021

Between:

1. M/s. Sambasiva Milk Transport, Add 6-4-246, 3rd cross, Arts Homes, Maruthi Nagar, Anantapuram, Andhra Pradesh Pin NO 515001.
Rep. by its Proprietor
Kanchi Parameswara Reddy.
2. Kanchi Parameswara Reddy, S/o. Sundararami Reddy, aged about 59, occ. Business,
R/o Flat No.502, Srisai Enclave, Road No 2, Saroor Nagar, Ranga Reddy Dist, Hyderabad, Telangana. Pin 500035.
..Petitioners

...PETITIONER(S)

AND:

1. The State of Andhra Pradesh Rep. by its Principal Secretary, Civil Supplies Department, Secretariat, Velgapudi, Amaravathi, Guntur District.
3. The Andhra Pradesh State Civil Supplies Corporation Ltd. Rep. by its Vice Chairman,
And Managing Director,
Civil Supplies Bhavan, D.No. 10-152/1,
Sri Sai Towers, Bandar Road, Kanuru,
Vijayawada Andhra Pradesh
4. The District Collector (C.S) Ananthapuram District,
Ananthapur.
5. The District Manager, AP Civil Supplies Corporation Ltd,
Dist Office, Ananthapuram.
6. The Station House Officer (SHO) Chilanmathur Police Station,
Ananthapuram district

...RESPONDENTS

Counsel for the Petitioner(s): JAMI MADHAVI

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following: ORDER

**THE HON'BLE SRI JUSTICE A.V.SESHA SAI****WRIT PETITION No.27885 OF 2021****ORDER:**

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the proceedings of the Andhra Pradesh State Civil Supplies Corporation Limited, issued vide File No.FCS51-13022/49/2021-MRKT SEC-APSCSCL dated 24.11.2021. By way of the impugned proceedings, the respondent-Corporation terminated Stage-I contract period of the petitioners, apart from withholding all pending bills and blacklisting the petitioner for a period of three years.

2. According to the petitioners, petition No.1 is a firm and petitioner No.2 is its Proprietor. Pursuant to the tender process undertaken, the respondent-Corporation awarded Stage-I Food Grains Transport Contract for transportation of rice, oils and pulses from FCI/Civil Supplies, Buffer godown to various Mandal level stock points in Ananthapuramu District. The petitioners provided EMD for Rs.72,00,000/-, security deposit for Rs.35,70,000/-, bank guarantee for Rs.3,59,00,000/-. An agreement came to be entered into on 22.04.2021. Thereafter, the respondent-Corporation issued a work order in favour of the petitioner-contractor for the period ending by 31.03.2023 and according to the petitioners, operations were commenced from 29.04.2021 by engaging private vehicles.



3. It is further stated that as a part of regular operations, the petitioners engaged 67 vehicles on hire basis on 13.08.2021 for transportation of goods from the Andhra Pradesh State Civil Supplies Buffer Godown, Zangalapalli to various MLS points in Ananthapuramu District. In the present Writ Petition, the issue pertains to vehicle bearing No.AP 02 TB 0036 and the goods, i.e., 520 bags of rice, destined to Tadipatri MLS point, vide delivery Challan No.5845 dated 13.08.2021. It is further stated in the writ affidavit that the said 520 rice bags were delivered to MLS point, Tadipatri on 13.08.2021 and incharge of MLS point, Tadipatri, issued acknowledgment in token of the receipt of the goods and the same was submitted to respondent No.4 on 14.08.2021 at 10-07 a.m. through WhatsApp. It is further stated that on 14.08.2021 at about 10-00 a.m., the police, Chilamathur intercepted the subject vehicle and registered Crime No.362 of 2021 for the offences alleged under Sections 420 and 406 I.P.C. and Section 7(1)(A) of the Essential Commodities Act, 1955. The District Manager-respondent No.4 herein cancelled the contract of the petitioners herein without issuing notice and the said order came to be challenged before this Court by filing Writ Petition No.18952 of 2021 and this Court allowed the said Writ Petition by way of an order dated 07.09.2021, setting aside the said order of cancellation of the contract. Subsequently, the Vice Chairman and the Managing Director of the respondent-Corporation, vide order dated 31.08.2021, terminated the subject contract and the same was



assailed in Writ Petition No.19770 of 2021 by the petitioner herein and the said Writ Petition was allowed by this Court on 13.09.2021 and the operative portion of the said order reads as under:

"For the aforesaid reasons, this Writ Petition is allowed, setting aside the impugned proceedings bearing Lr.No.PDS.3/18/2755/ 2021 dated 31.08.2021 issued by 2nd respondent and the matter is remanded to 2nd respondent for passing orders afresh. The competent authority shall issue a show cause notice, asking the petitioners herein to submit explanation as to the proposed action and to take appropriate action strictly in accordance with law and after adhering to the observations made supra. It is brought to the notice of this Court that after the Writ Petition is filed, the bank guarantee furnished by the petitioners herein was invoked by the respondents. If that being so, no further coercive action in respect of the said bank guarantee shall be taken pending the orders to be passed as indicated above. There shall be no order as to costs of the Writ Petition. "

4. Subsequently, the Vice Chairman and the Managing Director of the respondent-Corporation issued a show cause notice dated 16.09.2021 and in response to the said show cause notice, the petitioner herein submitted explanation on 23.09.2021. Respondent No.2, vide order dated 05.10.2021, once again, terminated the contract of the petitioner. The petitioner herein, assailing the validity and the legal sustainability of the said order dated 05.10.2021, once again invoked the jurisdiction of this Court under Article 226 of the Constitution of India by filing W.P.No.23088 of 2021 and the said Writ Petition came to be allowed by this Court by way of an order dated 07.10.2021 and the



operative portion of the said order at paragraph Nos.10 and 11 reads as follows:

"10. A perusal of the questioned order demonstrates, in clear and vivid terms, that respondent No.2 herein passed the impugned order contrary to the law laid down in the above referred judgments. Respondent No.2 ought to have recorded the reasons by considering the contents of the explanation and respondent No.2 followed the law laid down in the above referred judgments in breach.

11. For the aforesaid reasons, the Writ Petition is allowed, setting aside the order dated 05.10.2021 vide Lr.No.PDS.3/18/ 2755/2021 passed by respondent No.2 herein and the matter is remanded to respondent No.2 for fresh consideration of the issue and for passing appropriate orders after considering the explanations submitted by the petitioners herein after giving opportunity of being heard to the petitioners."

5. Now by way of the order under challenge dated 24.11.2021, respondent No.2 once again terminated the contract and also withheld the pending bills while blacklisting the petitioner for a period of three years. This Court on 26.11.2021 passed an interim order, directing the respondents not to make any permanent arrangements in respect of the subject contract.

6. A counter affidavit, deposed by respondent No.2 is filed on his behalf and on behalf of respondent No.4 herein, denying the allegations and the averments made in the affidavit filed in support



of the Writ Petition and in the direction of justifying the impugned action.

7. Heard Sri V.V.N.Narayana Rao, learned counsel representing Smt. Jami Madhavi, learned counsel for the petitioners and Sri P.Hemachandra, learned Standing Counsel for the Andhra Pradesh State Civil Supplies Corporation, appearing for the respondent-Corporation, apart from perusing the material available on record.

8. Learned counsel for the petitioner contends that the questioned action is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 19(1)(g) of the Constitution of India. In elaboration, it is contended further by the learned counsel that respondent No.2, having issued show cause notice, grossly erred in failing to take into consideration the contents of the explanation offered by the petitioner on 23.09.2021 and also grossly erred in appreciating the impact of Clause-4 of the agreement dated 22.04.2021 and that respondent No.2 passed the impugned order on assumptions and presumptions and without assigning any valid reasons. It is further argued by the learned counsel that respondent No.2 grossly erred in passing the impugned orders as the goods were already delivered at the Mandal level stock point, vide acknowledgment dated 13.08.2021 and that respondent No.2 passed the impugned order in a biased manner, as the petitioner herein filed a number of Writ Petitions. It is also the submission of



the learned counsel that the sole basis for respondent No.2 to resort to the impugned action is the report of the Tahsildar dated 25.08.2021 and that the said report cannot be believed in view of the impracticability contained therein.

To bolster his contentions and submissions, learned counsel for the petitioners places reliance on the judgments of the Hon'ble Supreme Court in the cases of *Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota v. Shukla and brothers*¹ and *Mohinder Singh Gill and another v. The Chief Election Commissioner, New Delhi and others*².

9. Per contra, strenuously resisting the very maintainability of the Writ Petition, it is contended by the learned counsel for respondent Nos.2 and 4, Sri P.Hemachandra, that there is no illegality nor there exists any procedural infirmity in the impugned action and in the absence of the same, the petitioners herein are not entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. It is further submitted by the learned counsel that in view of the contravention of Clauses 4(iv) and (v) of the agreement dated 22.04.2021 and the report of the Tahsildar dated 25.08.2021, which is a ground level report, the impugned action cannot be faulted. It is also the submission of the learned Standing Counsel that in view of the involvement of the petitioner in an illegal activity, respondent No.2 is perfectly justified in taking the impugned action. It is further submitted by the

¹ (2010) 4 Supreme Court Cases 785

² AIR 1978 Supreme Court 851



learned Standing Counsel for the respondent-Corporation that respondent No.2 herein passed the impugned order only after affording complete opportunity to the petitioner and that respondent No.2 passed the impugned order after meticulously considering all the ground realities, as such, no interference of this Court is warranted.

10. In the above background and in the light of the submissions/contentions of the learned counsel appearing for both sides, now the issues that emerge for adjudication by this Court are:

- (1) Whether the impugned action, having regard to the facts and circumstances of the case, is sustainable and tenable?
- (2) Whether the questioned action warrants any interference of this Court under Article 226 of the Constitution of India?

11. Posterior to the orders passed by this Court in Writ Petition No.19770 of 2021, the Vice Chairman and the Managing Director of respondent No.2-Corporation, vide Lr.No.PDS.3/18/2755/2021 dated 16.09.2021, issued a show cause notice, calling upon the petitioner to show cause as to why the subject contract should not be terminated by forfeiting security deposit, apart from invoking bank guarantee, withholding of all the pending bills and blacklisting the petitioner's firm for three years, while alleging diversion of PDS rice stocks in a lorry bearing registration No.AP



02TB 0036 on 13.08.2021 by violating Clauses 4(iv) and (v) and 7(v) of the subject agreement. But this Court does not find Clause 7(v) in the subject agreement but Clause 7 deals with the safety of the goods.

12. In this context, it would be apt and apposite to refer to Clause 4(iv) and (v) of the agreement dated 22.04.2021, which reads as follows:

"iv. The contractor or his representative is responsible for the quantity and quality of the stocks as taken delivery by him for transportation to the destinations as per the movement instructions issued by the Concerned District Manager. The Corporation shall have absolute right to suspend the contract at any time during the currency of the agreement without any notice or without assigning any reasons, if the contractor or his representative is involved in a case under Essential Commodities Act or any other Acts or convicted by Court of Law in a Criminal case. The contractor is responsible for any acts of his representatives, agents, employees, including truck owner, driver/cleaner of the truck in which stocks are loaded for transportation.

v. Since the transport contractor or his representatives are responsible for the quantity and quality of the stocks while in his custody, the contractor shall ensure delivery of stocks at destination as specified by the Concerned District Manager. In the event of failure or diversion of trucks with stocks or even misappropriation of stocks, the VC & MD shall have absolute right to terminate the contract without any



notice and forfeit the Security Deposit and invoke the Bank guarantee and withhold the pending bills. The action of VC & MD in this regard is final."

13. In response to the said show cause notice dated 16.09.2021, the petitioner herein admittedly submitted an elaborate explanation dated 23.09.2021 and paragraph Nos.7 to 9, 11, 15, 23 and 24 read as follows:

"7. In obedience to the show cause notice issued vide reference 6th cited, referring to the allegations appeared in print/electronic media, it is humbly submitted that as part of regular practice, M/s. Sri Sambasiva Milk Transport has engaged 67 vehicles on hire basis on 13-08-2021 for transportation of goods from AP Civil Supplies Buffer godown, Zangalapalli to various Mandal Level Stock Points in Ananthapur District. The vehicle No.AP02-TB-0036 (Owned by Sri G. Nagaraju) is one among those engaged for transportation of 520 Bags of rice (26.115 quintals) from Zangalapalli to Tadipatri vide Delivery Challan No.5845, dated 13-08-2021.

8. It is humbly submitted that the lorry bearing No.AP02TB 036 (owned by G.Nagaraju) loaded with 520 Bags of rice at FCI Godown, Zangalapalli on 13-08-2021 at 6.00 PM has been transported and delivered at the MLS Point, Tadipatri on same day of 13-08-2021 vide reference 7th cited and the Data Entry Operator, MLS Point, APSCSCL, Tadipatri has acknowledged 520 bags of rice duly after unloading the Lorry. Subsequently, as requested by the District Manager, APSCSCL, Ananthapuram through Sri Hemanth (Mobile No.7780449899), the acknowledgement has been sent



on 14-08-2021 at 10.07 AM over WhatsApp from Mobile No.9912325999. Therefore, it is clear that M/s. SSSMT has fulfilled its contractual obligation by handing over the rice stocks lifted from FCI Godown, Zangalapallitheat MLS Point, Tadipatri. Thereupon, our transportation activity went on and the number of lorries positioned are as under:

Date	13-08-21	14-08-21	15-08-21	16-08-21	17-08-21	18-08-21	19-08-21	Total
No. of lorries Positioned	124	108	40	36	71	43	33	455

9. Also, the show cause notice issued vide reference 6th cited, it has been confirmed as at paragraph four (4) that the Data Entry Operator at MLS Point, Tadipatri also has acknowledged the stocks. However, the same is being interpreted by the officials of APSCSCL in their own way aiming to protecting themselves, trying to mislead the incident taking advantage of their position and have issued notice vide reference 1st cited after questionable delay of 13 days. I request your authority to kindly give a close reading to the FIR under reference 8th cited on the issues explained in the following lines and do justice.

11. It is submitted that as can be seen from the FIR/mahajarunama reference 8th cited, the vehicle No.AP-02-TB-0036 (owned by Gadaparthi Nagaraju) has been seized by the Police Authorities on 14-08-2021 at 10.00 AM and not on 13-08-2021 at 8.30 PM as being mentioned in the reference 1st, 4th and 6th cited by the officials of APSCSCL after questionable delay of 13 days and it is misleading.

15. It is submitted that the vide reference 1st cited, in pursuance to the tender conditions 14(iv & v), the



Stage-I Food Grains Transport Contract of M/s. SSSMT and the authorizations given for lifting the stocks from various buffer godowns in Ananthapuramu & Nellore Districts have been cancelled until further orders from the VC & MD, APSCSCL, Vijayawada. In this connection, I request the authorities to kindly give a close reading to the clause 14(iv) with 14(v), wherein, it is clear that the contractor is responsible for the quantity and quality of the stocks while in his custody. As explained under paragraph eight (8) above, the custody of the PDS rice lifted from FCI Godown, Zangalapallithe on 13-08-2021 at 6.00 PM stands with in-charge of the employee at MLS Point, APSCSCL, Tadipatri. Therefore, any action against M/s. SSSMT is illegal and not in accordance with Law.

23. Further, it is submitted that M/s. SSSMT has been awarded the contract on providing EMD of Rs.72,00,000/-, Security Deposit of Rs.35,70,000/-, Bank Guarantee of Rs.3,59,00,000/- totaling to Rs.4,66,70,000/- and it is illogical to allege that M/s. SSSMT is involved in Black Marketing based on the publication of news item for petty gains, which is painful. M/s. SSSMT has a standing of 25 years, known for its honesty and severing the State of Andhra Pradesh and there has been no single FIR till date, it is not correct to make false allegation of whatsoever.

24. It is submitted that the clause 4(iv & v) and 7(v) referred in the show cause notice 6th cited enunciated in the Agreement entered on 22nd April 2021 are not applicable in the instant case as the goods stands under the custody of APSCSCL as already explained under Paragraph eight (8) above and having fulfilled the



contractual obligation and any action is illegal and is not in accordance with law. Hence, it is requested to restore the orders of my contract, revive the Security Deposit, Bank Guarantee and do the justice."

14. A reading of Clause 4(iv & v) of the agreement makes it very much clear that the liability of the contractor continues so long as the stocks remain in the custody of the contractor. In the instant case, it is the categoric version of the petitioner that on 13.08.2021 itself, the stocks were delivered at MLS Point, Tadipatri and in order to demonstrate the same, acknowledgment issued by the In-charge of the MLS Point, Tadipatri, is filed and the same also shows the signature of the In-charge of the MLS Point. Another significant aspect is that in the show cause notice dated 16.09.2021, respondent No.2 while referring to the very basis for the impugned action stated in the following manner:

"Further reported that, the Lorry bearing No.AP02TB0036 was seized by the Sub Inspector of Police, Chilamathru which was loaded with PDS Rice at FCI godown, Zangalapalle on 13.08.2021 and the same was sent to Tadipatri MLS Point through Stage I transport contractor at 6.00 PM and the truck had not reached the MLS Point, Tadipatri and the same was caught by the Police Authorities, Chilamathur at 8.30 Pm whereas, the same truck was acknowledged by the Data Entry Operator, MLS Point Tadipatri but, the stocks were not unloaded at the MLS Point."



15. At this juncture, it is also essential to refer to the first information report in Crime No.362 of 2021 on the file of Chilamathur Police Station. According to column No.12 of the said first information report, the incident occurred on 14.08.2021 at 10.00 a.m. and the Mahazarunama dated 14.08.2021 also refers to the said time and date. But, according to the show cause notice dated 16.09.2021, the subject lorry bearing No.AP-02-TB-0036 was seized by the Sub Inspector of Police, Chilamathur Police Station on 13.08.2021 at 8-30 p.m. The said show cause notice also observes that the truck was acknowledged by the Data Entry Operator, MLS Point, Tadipatri, but the stocks were not unloaded at the MLS Point, Tadipatri. Obviously, the basis and the foundation for respondent No.2 to initiate the impugned action is the interception, seizure of the lorry and the registration of the F.I.R. by Chilamathur Police. Therefore, it would be essential to refer to the contents of the first information report in Crime No.362 of 2021 and Mahazurnama drawn on 14.08.2021. Column No.12 of the F.I.R. mentions in the following manner:

"Occurred on 14.08.2021 at 10.00 AM at Morampalli cross, On NH44 Bangalore-Hyderabad road, Kodikonda check post, Chillamathur Mandal and reported in the PS on same day at 11.30 AM wherein the unknown accused who has possession of 500 bags and total 250 quintals (PDS rice) on noticing the police the accused were escaped from the spot living the said PDS rice and one 12 wheeler shok layland lorry bearing No.AP-02-TB-0036 seized the said PDS rice and one 12 wheeler shok



layland lorry bearing No.AP-02-TB-0036 under cover of mahazarnam."

16. A perusal of mahazarnama drawn on 14.08.2021, which is also filed along with the Writ Petition as a material paper, also demonstrates in crystal clear terms that the vehicle with goods was intercepted and seized on 14.08.2021 at 9.30 a.m. The said documents prepared by the police are undoubtedly statutory in nature and the same are the foundation for the very initiation of the impugned action. No plausible explanation is forthcoming as to why respondent No.2 mentioned in the show cause notice dated 16.09.2021 that the incident took place on 13.08.2021 at 8-30 p.m. when the reality remains that the first information report and the mahazarnama show a different date and time. The actions of the statutory authorities are required to be transparent and clear and there should be no room for any ambiguity or suspicion and the non-transparent and ambiguous situation cannot be made the basis for taking/initiating any actions which are penal in nature by the administrative authorities. It is also not the case of the respondents that the incharge of the Mandal Level Stock point, Tadipatri, did not acknowledge the receipt of the stock on 13.08.2021. The stand of the respondents on this point is also not clear since on one hand, the respondents suspect the incharge of the Mandal Level Stock point and on the other hand, their case is that the negligence of the incharge cannot be tolerated. Once the stocks were acknowledged and went out of the custody of the



petitioner, this Court finds no justification on the part of the authorities to resort to the impugned action on the basis of assumptions and presumptions about the involvement of the contractor.

17. Another significant aspect which also takes away the very basis of the case of the respondents and cuts the root of the matter is that in the impugned order dated 24.11.2021, respondent No.2 herein referred to an inspection undertaken by the Tahsildar and according to respondent No.2, the Tahsildar inspected the MLS point on 13.08.2021 and found certain variations in the stock. Learned counsel for the petitioner strenuously denies the veracity of the said report and contends that the said report has been brought into existence only for the purpose of justifying the impugned action and in reality, no such inspection was undertaken. In fact, the report of the Tahsildar, which formed the basis for respondent No.2 to arrive at the conclusion of the petitioners, is also filed along with the counter affidavit as a material paper. In the said report dated 25.08.2021, the Tahsildar, Tadipatri stated that on the directions of the Joint Collector, he conducted cursory review on 13.08.2021 at the MLS point. According to the Tahsildar, pursuant to the instructions received from the Joint Collector at 2-50 p.m. on 14.08.2021, he conducted such inspection on 13.08.2021. This statement creates any amount of suspicion on the veracity of the holding of inspection, because when the Joint Collector issued instructions on



14.08.2021 at 2-50 p.m., the question of holding inspection on 13.08.2021 appears to be impracticable and is a human impossibility. Therefore, this Court is of the opinion that such a report of the Tahsildar dated 25.08.2021, which formed the basis for respondent No.2 to initiate the impugned action, cannot be conferred with any credence. It is also pertinent to note in this context that the Tahsildar, Tadipatri, in the report dated 25.08.2021 also made an observation that during the verification, he could not cull out what exactly the quantity of the PDS rice diverted from the MLS point. It is also significant to note in this context that in the mahazarnama dated 14.08.2021, it is mentioned that the PDS rice distributed to the poor was collected, showing higher price with an intention to transport the same to the Karnataka State. In this connection, it may also be pertinent to refer to the judgments cited by the learned counsel for the petitioners. In *Shukla's* case (1 supra), the Hon'ble Apex Court at paragraph No.13 held in the following manner:

"13. At the cost of repetition, we may notice, that this Court has consistently taken the view that recording of reasons is an essential feature of dispensation of justice. A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to



administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher court in the event of challenge to that judgment. Now, we may refer to certain judgments of this Court as well as of the High Courts which have taken this view."

18. In *Mohinder Singh Gill's* case (2 supra), a Constitutional Bench of the Hon'ble Supreme Court at paragraph No.8 held as follows:-

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in *Gordhandas Bhanji* (AIR 1952 SC 16) (at p.18):

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in Ms mind, or what he intended to, do. Public orders made by public authorities are meant to have public effect and are intended to effect the actings and conduct of those to whom they are addressed and



must be construed objectively with reference to the language used in the order itself."

19. A perusal of the impugned order dated 24.11.2021 also shows that respondent No.2 herein, though referred to the explanation submitted by the petitioner, simply stated that the explanation was unable to be considered. In view of the law laid down by the Hon'ble Apex Court in the case of *Shukla* (1 supra), the said reason assigned by respondent No.2 herein for resorting to the impugned action is neither sustainable nor tenable. Having issued the show cause notice and having acknowledged the explanation offered by the petitioner, there is absolutely no justification on the part of respondent No.2 in not answering the contentions raised in the said explanation. It is also a settled law, as held by the Hon'ble Apex Court in the case of *Mohinder Singh Gill* (2 supra), that the justification for issuing the impugned order cannot be permitted to be raised in the counter affidavit, when there was failure to assign the same in the impugned order.

20. In view of the above reasons and the law laid down by the Hon'ble Apex Court in the above referred judgments, this Court has absolutely no scintilla of hesitation nor any shadow of doubt to arrive at the conclusion that the impugned action cannot be sustained in the eye of law.

21. Accordingly, this Writ Petition is allowed, setting aside the impugned order dated 24.11.2021 passed by respondent No.2,



vide File No.FCS51-13022/49/2021-MRKT SEC – APSCSCL. There shall be no order as to costs of the Writ Petition.

As a sequel, interlocutory applications pending, if any, in this Writ Petition shall stand closed.

Date: 09.02.2022

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A.V.SESHA SAI, J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.27885 OF 2021

Date: 09.02.2022

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