

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF JUNE, 2011

BEFORE

THE HON'BLE Mr. JUSTICE K.L. MANJUNATH

WRIT PETITION No. 19910-14/2009 (CM-TEN)

BETWEEN:

1. M/s Agro Seeds Corporation,
R/by S.Chandrashekarappa,
73 years, s/o S.Maheshwarappa,
M.C.Complex, B.T.Layout,
Davanagere 587 101.
Davanagere Dist.
2. M/s Green Field Seeds Pvt. Ltd.,
No.2645, 1st floor, E Block,
Sahakarnagar, Bangalore-92.
By its Director M.K.Suresh,
43 years, S/o Kempachannaiah.
3. M/s Shekar Agro Industries,
Partnership Concern, No.240,
Chamarajpet, Davanagere.
Davanagere Dist. By its partner
M.K.Chandrashekarappa s/o
M.Shivalingappa, 58 years.
4. M/s Bharani Seeds Pvt. Ltd.,
Seeds Producers & Marketers,
SRBMS Building, A-Block,
APMC Yard, Medehalli Road,
Chitradurga. Dist: Chitradurga.
By its Director R.Devanatha
Reddy s/o G.Rudrappa Reddy,
59 years.

5. M/s Bhadra Hybrids Seeds Co.,
 No.94/1-A, K.R.Road,
 (Adjacent to Shanthi Talkies)
 Davanagere. Davanagere Dist.
 By its Proprietor
 M.S.Basavarajappa S/o
 M.K.Shivalingappa,
 53 years.

PETITIONERS

(By Advocate Sri.R.S.Hegde)

AND:

1. The State of Karnataka,
 By its Principal Secretary to
 Finance Department,
 Vikas Soudha,
 Dr.Ambedkar Veedhi,
 Bangalore-1.

2. The State of Karnataka,
 By its Prl. Secretary to
 Dept. of Agriculture &
 Horticulture. Vikas Soudha,
 Dr. Ambedkar Veedhi,
 Bangalore-1.

3. The Commissioner for
 Agriculture, Seshadri Road,
 Bangalore.

4. The Director of Agriculture,
 Seshadri Road, Bangalore.

RESPONDENTS

(By Sri.E.S.Indresh, HCGP)

These Petitions are filed under Arts.226 & 227
 of the Constitution of India to quash the impugned

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notification dated 4.4.2009 vide Annexure-K issued by Respondent-1 as illegal and contrary to law and to direct the respondents to follow the procedure contemplated under the provisions of Karnataka Transparency in Public Procurements Act, 1999 for purchase and procurement of certified/TL seeds for the various departmental programmes of the Department of Agriculture for distribution to the small farmers and very small farmers in the State of Karnataka under the subsidy schemes.

These Petitions are coming on for final hearing this day, the Court made the following:

ORDER

Petitioners are indulging in procuring agricultural seeds and supplying seeds of certified/TL Seeds to the State of Karnataka for various departmental programmes under subsidy scheme sponsored by the Central and State Government for distribution of quality seeds at a subsidised rates to small farmers throughout Karnataka. According to them, they were participating in the tender all these years. But all of a sudden as per Annexure-K dated 4.4.2009 Government has issued a notification granting

permission to purchase seeds from Karnataka State Seeds Corporation, National Seeds Corporation, Karnataka State Co-operative Oil Seeds Federation², University Agricultural Sciences, Bangalore, Dharwad and Raichur without following the provisions of Karnataka Transparency in Public Procurement Act, 1999 exercising its powers under Sec.4(d) of the Act. This order is called in question in this petition.

2. Heard the counsel for the petitioners Mr.R.S.Hegde and the learned Govt. Advocate for the respondents.

3. The only question that has been raised by Mr.Hegde in this Writ Petition is that the notification dated 4.4.2009 is contrary to Sec.4 of the Karnataka Transparency in Public Procurement Act, 1999 (hereinafter referred to as 'The Act') since Government Under Sec.6 of the Act is vested with the power to grant exemption to

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procure seeds or any article from its own department by granting exemption of the application of the Act. According to ^{him} me, the said provision was there only for a period of three years which has come to an end by efflux of time in the year 2003. According to him, Sec.4(d) of the Act could not have been exercised by the Government after expiry of the period contained under Sec.4(d) of the Act. In the circumstances, he requests the court to quash the notification dated 4.4.2009 on the ground that it contravenes the provisions of the Act. Learned Govt. Advocate tried to support the orders of the Government and requests the court to dismiss the petition.

4. Having heard the counsel for the petitioners, the only point to be considered by this court in this Writ Petition is:

"Whether Sec.4(d) of the Act could be invoked by the State of Karnataka on 4.4.2009?"

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5. Sec.4(d) of the Act reads as hereunder:

"Where the goods or services are procured from certain Departments of Government, public sector undertakings, statutory boards and such other institutions specified by the Government and such goods are manufactured or services are provided by them, for a period not exceeding [three years] from the date of commencement of this Act."

From this it is clear the exemption could have been granted to the Government Department or the Public Sector Undertaking of Union of India or of State Government till the year 2003, since application of the Act was exempted to those concerns only for a period of three years from the commencement of the Act which period has come to an end by efflux of time. In view of the same, this court is of the opinion that notification of ^{issued} Sec.4(d) of the Act by the State Government in the present case is contrary to the provisions of the Act. Therefore, same is required to be quashed.

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5. In the result, these petitions are allowed.
Rule is made absolute. Annexure-K dated 4.4.2009
is hereby quashed.

Sd/-
JUDGE

R/080611