



THE ANDHRA PRADESH STATE CIVIL SUPPLIES CORPORATION LTD
Regd Office: 6-3-655/1/A, C S Bhavan, Somajiguda, Hyderabad-82

Sri Adhar Sinha, IAS,
VC & Managing Director

CIRCULAR NO.14

No.PDS/Movt/FG5(15)/2002-03,

Dated 23RD August,2005

Sub: Review of Judgment in CC No.189 of 2003 in the court of
I Addl. Judicial Magistrate of First Class, Khammam –
Certain instructions issued - Reg.
Ref: CC No.189/2003 P.S, Khammam III Town.

On review of the judgment in CC No. 189 of 2003 delivered by the First Addl. Judicial Magistrate of First Class, Khammam on 4-8-2005, it is noticed that the S.I. of Police, Khammam, III Town P.S. who has filed the Charge Sheet, u/s 406, and 407 r/w 411 of IPC has not included as an accused the Stage-I Contractor of A.P.State Civil Supplies Corporation, who was instrumental in hiring the lorry through his commission agent for transportation of rice from FCI point to Mandal level stockiest point resulting in its attempted diversion.

In this case, as the lorry met with an accident at Aswaraopeta, which is beyond the destination of MLS point of Sathupally, therefore, the commission of the offence of diverting the SGRY rice could be prevented. At the same time, the fact that the accident took place at Aswaraopeta which is much beyond the destination point of Sathupally was clinching evidence in support of the attempt to divert the rice. Unfortunately, even though this point was raised by the APPO in his argument and it was made note of in the judgment, but it did not beget the required severity of punishment in the judgment. On the contrary, taking a misplaced humanitarian view on the driver, the punishment of imprisonment was also reduced and the lorry driver was let off with a simple fine of Rs.5000/-.

It is a clear case that about 10.486 MTs of SGRY rice in 210 bags were being attempted to be diverted with the cognizance and collusion of the contractor, commission agent and the lorry driver, but all these aspects seems to have been totally ignored and the case has been diluted. In fact, the main charge of criminal breach of trust covered u/s 406 and 407 r/w 411 of IPC under which the case was prosecuted was not at all pursued during the trial, as evidenced from a reading of the judgment.

The following instructions are issued to the District Managers of CSC in dealing with the cases of above nature so as to protect the interest of the Corporation.

- 1) FIR should include the Stage-I contractor and his authorized business representative also as accused and not just lorry driver/cleaner.
- 2) Sections 405 to 409 should be invoked in FIR with special reference to
 - Carrier.. S.407 i.e. the driver and cleaner.
 - Clerk/Servant ...S.408 i.e. the contractor's agent.
 - Merchant/Agent.. S.409 i.e. the contractor himself.
- 3) Section 410 defines "stolen property" among other things as property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed. Therefore, Section 411, i.e. dishonestly receiving stolen property and Section 414 i.e. assisting in concealment of stolen property may also arise whenever Section 405 to 409 is invoked,
- 4) Section 420 on cheating and dishonestly inducing delivery of property should also be invoked.
- 5) Relevant documents should be included in charge sheet as documents to be marked in trial, such as
 - Agreement Conditions.
 - Movement Order
 - Record of loading and despatch from FCI point
 - Non-receipt at MLS points
 - Any other relevant document
- 6) The evidence to be given by PWs as official witness should be properly prepared in consultation with concerned Police Officer and APPO. Possibility of filing written statement by DM, MLSP i/c, in addition to oral evidence may be explored.
- 7) Any other relevant legal point.

Copies of FIR, Charge sheet, written evidence, etc. should be sent to HO immediately in such cases.

Receipt of this Circular shall be acknowledged by return of post.

VC & MANAGING DIRECTOR.

To
All District Managers of CSC
All Zonal Managers of CSC.

Copy to all General Managers in Head Office. GM (PDS) shall prescribe a monthly periodical for monitoring and review stage-wise of all such cases.

Copy to all Collectors/ Jt.Collectors for information and N.A..

Copy to CCS & EOS to Govt., CA, F & CS Deptt., AP, Hyderabad.