

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.41172 of 2014

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Dated: 31.12.2014

Between:

L.C.Malakonda Reddy

.. Petitioner

and

The State of Andhra Pradesh,
rep. by the Principal Secretary,
Civil Supplies Department,
Secretariat, Hyderabad
and others.

.. Respondents

Counsel for the petitioner: Mr. Kiran Kumar.

Counsel for the respondents : AGP for Civil Supplies (AP)

The court made the following:

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ORDER:

This writ petition is filed with the grievance that though nearly 2 ½ years had elapsed from the date of passing of the order of suspension, the enquiry is not finalised.

I have heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies (A.P).

By order, dated 10.09.2012, the petitioner's authorisation was suspended by respondent No.4 on the following allegations:

(1) there was shortage of 0.015 kgs of MDM rice, an excess of 0.002 kgs of sugar and shortage of 0.001 kg of palmolein oil,

(2) dealer was not possessing valid authorization and when asked, he said that he has sent the same for renewal,

(3) when verified the sales register, instances have been noticed that the essential commodities of three cardholders were given to one person by name D.Suguna,

(4) the stock-cum-price board was not properly maintained,

(5) the petitioner has not maintained flexi board depicting the particulars of shop, dealer, timings and prices,

(6) the petitioner has not maintained flexi board depicting "one rupee kilo rice",

(7) the petitioner has not maintained flexi board depicting the particulars of cardholders and

(8) though there were entries in the sales register for distribution of 24 litres of kerosene oil, the dealer has shown 30 litres as opening balance from 01.09.2012 in the stock register without effecting the entries during the current month.

Assailing the said order, the petitioner has filed W.P.No.32568 of 2012 before this Court. This Court, by order dated 16.10.2012, declined to interfere with the said order in view of availability of remedy of appeal, to the petitioner. The petitioner has, accordingly, filed an appeal before respondent No.3. By his order dated 05.03.2013, respondent No.3, without interfering with the order of respondent No.4, directed the latter to complete the disciplinary proceedings within two weeks. The grievance of the petitioner is that though more than 1 ½ years had expired from the date of disposal of the appeal, respondent No.4 has not finalised the enquiry and passed a final order.

A perusal of the charges, on which the petitioner's authorisation has been suspended, shows that none of them are serious enough warranting suspension. Even assuming that such suspension is warranted, there is no justification for keeping the enquiry pending for more than 2 ½ years, while keeping the petitioner's authorisation under suspension.

Indeed, this Court has held that the action of suspension being extreme in nature, the appointing authority shall not resort to such action, unless the nature of the allegations is so serious that it is not desirable to continue the fair price shop dealer till completion of enquiry and passing of a final order. (See **K.Nirmala V. Revenue Divisional Officer, Anantapur**^[1], **Thyrumala Setty Phanindra V. District Collector (CS), Guntur District and others**^[2] and in Writ Petition No.25823 of 2014 and batch, dated 07.10.2014). Unless the appointing authority refers to the nature of the allegations and records his satisfaction that the continuance

of dealer is not in public interest, the action of suspension cannot be resorted to.

In the above circumstances, if enquiry has not been completed and final order has not already been passed and served on the petitioner so far, he shall be permitted to resume as the dealer of fair price shop No.20 of Bhyravaram village, Duttaluru Mandal, SPSR Nellore District.

The writ petition is, accordingly, disposed of. As a sequel to disposal of the writ petition, W.P.M.P.No.51551 of 2014, filed by the petitioner for interim relief, shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

31.12.2014
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[\[1\]](#) 2013 (1) ALT 339

[\[2\]](#) 2013 (5) ALT 237