

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.41116 of 2014

Date:31.12.2014

Between:

Boddu Mallaiah,
S/o Kistaiah

..... Petitioner

And:

The State of Telangana., repled by its Principal
Secretary, Civil Supplies Department,
Hyderabad and three others.

.....Respondents

Counsel for the Petitioner: Sri P.Lakshma Reddy

Counsel for the Respondents: GP for Civil Supplies (TS)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside proceedings in Proc.No.C/821/2014, dated 03.12.2014, of respondent No.3, whereby he has suspended the petitioner's fair price shop authorization.

A perusal of impugned proceeding shows that the sole reason for which the petitioner's fair price shop authorization has been suspended is initiation of the proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') against him.

In my opinion, the scope of the proceedings under Section 6-A of the Act and the jurisdiction of respondent No.3 as appointing-cum-disciplinary authority are distinct and different from each other. As a disciplinary authority, it is incumbent upon respondent No.3 to consider whether the allegations on which the proceedings under Section 6-

A of the Act have been initiated are serious enough to warrant suspension of the petitioner's fair price shop authorization, pending enquiry.

Indeed, this Court has held that the action of suspension being extreme in nature, the appointing authority shall not resort to such action, unless he is satisfied that the nature of the allegations is so serious that it is not desirable to continue the fair price shop dealer in public interest, pending enquiry. (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 his satisfaction is recorded by respondent No.3 with reference to the allegations against the petitioner, the latter's fair price shop authorization shall not be suspended. As respondent No.3 has failed to apply his mind to the nature of the allegations and record his satisfaction that it is not desirable to continue the petitioner as the fair price shop dealer in public interest, the impugned order is set aside. The petitioner shall be continued as the fair price shop dealer. This order, however, will not preclude respondent No.3 from passing a fresh order in the light of the observations made hereinbefore.

Subject to the above direction and observation, the Writ Petition is allowed.

As a sequel to disposal of the Writ Petition, W.P.M.P.No.51492 of 2014 filed by the petitioner for interim relief is disposed of as infructuous.

JUSTICE
C.V.NAGARJUNA REDDY

31st December 2014
DR

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

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