

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

WRIT PETITION No.41200 of 2014

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Dated: 31.12.2014

Between:

P.Sree Ram Murthy

.. Petitioner

and

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

.. Respondents

Counsel for the petitioner: Mr.Taddi Nageswara Rao

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

The court made the following:

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ORDER:

This writ petition is filed for a Mandamus to set aside proceedings in Rc.No.717/2014 CSDT dated 20.11.2014 of respondent No.3.

A perusal of the impugned proceedings shows that the petitioner's fair price shop authorisation has been suspended on the following charges:

Charge-1: That the F.P.Shop dealer has distributed lesser weightment to Cardholders. Thus it is clearly established that the F.P.Shop dealer is resorting in diversion of Rice to open market and indulging in clandestine business and contravened the provisions of Clause 17(b), 17(c) of A.P. State Public Distribution System Control Order 2008.

Charge-2: That the F.P. Shop dealer has not distributed P.D.S. Rice properly to the death & migrated Units/Cardholders and diverting the essential commodities to the Black market and thus and violated Cl.17(b), 17(c).

Charge-3: That the F.P.Shop dealer has failed to maintain records properly and violated the Cl.22(viii) of A.P.State Public Distribution System Control Order, 2008."

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From the above-reproduced charges, it is evident that they are as vague as vagueness could be. Respondent No.3 has not given the details with respect to how many cardholders the commodities were supplied with short weightment and to what extent was not explained under charge No.1. Similarly, as regards charge No.2, the very framing of charge is highly defective, as it gives out the meaning that the petitioner was supposed to distribute PDS rice even to dead and migrated persons. Charge No.3 is also absolutely vague.

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, Anatapur**^[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. As the impugned order fails to satisfy the principles laid down in the above-mentioned judgments, the same cannot be sustained.

Accordingly, the impugned order is set aside and the writ petition is allowed.

As a sequel to the allowing of the writ petition, W.P.M.P.No.51582 of 2014, filed by the petitioner for interim relief, is 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