

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.23760 of 2015

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

2. The petitioner was appointed as fair price shop dealer of shop No.51 of Cherlopalli, Hamlet of Peddoddi Village, Gooty Mandal, Anantapur District, on temporary basis. It appears that a report was called for by the third respondent-Tahsildar, Gooty Mandal on 18.08.2014. Basing on the said report, the second respondent-Revenue Divisional Officer, Anantapur issued a show cause notice by suspending the authorization of the petitioner. Challenging the order of suspension, the petitioner approached this Court by filing Writ Petition No.3708 of 2015 and this Court, by order dated 25.02.2015 directed the second respondent to complete the enquiry and pass final orders within a period of six weeks from the date of receipt of a copy of the Order. In the meanwhile, the petitioner submitted his explanation through a counsel. The enquiry was not completed within the time fixed by this Court, but however, final orders were passed on 06.06.2015 by the second respondent cancelling the authorization of fair price shop dealership of the petitioner. Challenging the same, the present writ petition is filed.

3. A show cause notice was issued on 28.08.2014 based on the report of the Tahsildar dated 18.08.2014. Eight charges were framed against the petitioner. The petitioner submitted his explanation through a counsel. This Court directed the second respondent to complete the enquiry within six weeks from the date of receipt of a copy of the order in Writ Petition No.3708 of 2015, dated 25.02.2015. It appears that the said copy was received on 30.04.2015 by the second respondent and the impugned order of cancellation of authorization was passed on 06.06.2015 by recording a finding in respect of each charge, based on the report of the Mandal Revenue Inspector-I, Gooty.

Ultimately, he held as follows:

“It seems that the F.P. shop dealer has committed grave irregularities in distribution of ECs to the cardholders in the village and also misused 66 liters K. Oil and diverted the same into black market for his pecuniary gains.

In view of the above the explanation filed by the F.P. shop dealer through his advocate Sri B. Ramachandra is not convinced and charges framed against the F.P. shop dealer are proved.

I felt that deterrent punishment is necessary to keep away the FP shop dealer from the public distribution system to safe guard the interest of the poor cardholders and also for smooth functioning of Public Distribution System.”

4. A Division Bench of this Court held in ***Ambati Srinivasulu v. District Collector, Nellore***^[1] that when the authority is relying on a report and a copy of the said report should be made available to the dealer, no such effort was made by the second respondent.

5. When the petitioner submitted his explanation through a counsel, no enquiry was conducted by the second respondent and the impugned order was passed based on the explanation submitted by the petitioner and the report of the Mandal Revenue Inspector-I, Gooty. When the petitioner denied the charges, the burden is on the authorities to prove the charges. The second respondent passed an order without discharging such burden and recorded a finding that the petitioner misused 66 liters of kerosene oil and diverted the same into black market for his pecuniary gains, without any proof or evidence.

6. In the circumstances, the writ petition is allowed and the impugned order dated 06.06.2015 is set aside and the matter is remanded to the second respondent for conducting enquiry in respect of allegations and pass final orders thereon after observing the principles of natural justice as required in this case, within a period of three months from the date of receipt of a copy of this order. However, there shall be no order as to costs.

7. Before parting with the case, this Court feels that the second respondent has not changed his attitude in spite of comments

made by this Court in several cases which came to the notice of this Court and is passing usual orders holding as follows:

“I felt that deterrent punishment is necessary to keep away the FP shop dealer from the public distribution system to safeguard the interest of the poor cardholders and also for smooth functioning of Public Distribution System.”

8. This type of disposal of cases causes confusion in the minds of the cardholders as temporary arrangements have to be made in case of suspensions and the said arrangements have to be disturbed whenever the orders of cancellation are set aside by this Court. Had the second respondent observed the principles of natural justice and binding decisions of this Court while discharging his duties, this confusion could have been avoided.

In view of the past experience of the orders passed by this officer, this Court feels it necessary to bring the present case to the notice of the Commissioner of Civil Supplies, Government of Andhra Pradesh, to conduct an enquiry against the orders passed by the second respondent for disobeying the law in discharge of his duties. Registry is directed to communicate a copy of this order along with the impugned order dated 06.06.2015 to the Commissioner of Civil Supplies, Government of Andhra Pradesh, for further appropriate action.

9. Miscellaneous Petitions, if any pending in this writ petition, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 30.07.2015
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[\[1\]](#) 2006 (1) ALT 273 (DB)