**HON'BLE SRI JUSTICE R. KANTHA RAO**

**W.P.No.9594 of 2015**

**ORDER:**

Heard learned counsel appearing for the petitioner and learned Government Pleader for Civil Supplies appearing for respondents 1 to 5.

This Writ Petition is filed seeking to declare the action of the 4th respondent in suspending the authorization of the petitioner *vide* proceedings dated 23.03.2015, as arbitrary and illegal.

Petitioner is the permanent dealer of fair price shop No.9, Chowtakuntapalli Village, Nallamada Mandal, Anantapur District. On 10.7.2013, the Regional and Vigilance Officers, Ananthapuramu inspected the fair price shop of the petitioner, verified the stock and found certain variations. Based on the report submitted by the 5th respondent, the 4th respondent *vide* proceedings dated 23.03.2015 suspended the authorization of the petitioner.

Learned counsel appearing for the petitioner submits that the period of suspension was not mentioned in the impugned order and it is in the nature of final order. Learned counsel placed reliance on the decision of this Court in ***Palle Peeraiah v. District Collector, Warangal and others***, wherein learned Single Judge of this Court took the view that if suspension is the appropriate sustentative penalty, it could be imposed for a limited period or if the authority feels cancellation is the appropriate penalty, the said penalty can be imposed.

In the said case, learned Single Judge suspended the order of suspension passed by the Revenue Divisional Officer and given liberty to pass fresh order in accordance with law. Therefore, learned counsel for the petitioner seeks to suspend the order passed by the Revenue Divisional Officer.

In the instant case, I am of the considered view that no hard and fast rule can be laid down as to whether an interim order can be suspended or not. It is not possible to lay down abstract principles governing as to when this Court has to exercise its jurisdiction to grant an order of suspension of the impugned order. Further, the Division Bench of this Court in WAMP No.343 of 2015 in W.A.No.118 of 2015, held as under:

> "On the question of interim relief, stay of operation of the impugned judgment and order has to be granted, as we are prima facie of the view, overruling the contention of the learned counsel for the writ petitioner, the Hon'ble trial judge has no jurisdiction, at the first instance, to substitute his own opinion or decision, in the place of opinion of the authority under the Essential Commodities Act, 1955.
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> Short fact of the case is that the writ petitioner is a Fair Price Shop Dealer and he was issued a show cause notice on the complaint made by the appellant with regard to misuse of the kerosene oil and we have seen the charges made against the writ petitioner. The writ petitioner has given explanation to the same. As an interim measure, an order of suspension has been issued. The Statute provides power to issue suspension order, pending final decision in the enquiry. According to us, the suspension order was justified, because at the enquiry stage the authority concerned is to examine the prima facie case, meaning thereby, whether there has been any serious allegations against him nor not, and at that stage, the explanation is not required to be looked into. The explanation is required to be examined at the time of final hearing of the enquiry and that is still pending.
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> Accordingly, we grant stay of operation of the impugned judgment and order of the learned trial Judge. However, we make it clear that the pendency of the appeal will not debar the authority concerned to proceed to dispose of the pending enquiry finally. The observations and findings made in this order, or of the Hon'ble trial Judge in the impugned order, will not be binding or influencing factor. Obviously a speaking order shall be passed. All points are kept open to be agitated by the writ petitioner-respondent."

This Court is not supposed to substitute its opinion to the order of suspension passed by the authority. In the instant case, some of the allegations levelled against the petitioner were serious in nature and therefore, it cannot be said that there is no basis for passing the order of suspension.

Under these circumstances, the Writ Petition is disposed of directing the Revenue Divisional Officer to complete enquiry and pass final order within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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

JUSTICE R. KANTHA RAO

*7tht April, 2015*

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