

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

**-
WRIT PETITION No.27822 of 2015**

DATE 31-08-2015

Between:

K. Vannappa

... Petitioner

And

1. The State of Andhra Pradesh, rep. by its Secretary Consumer affairs, Food and Civil Supplies Department, Secretariat Buildings, Hyderabad, and others.

... Respondents

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

W.P.No.27822 of 2015

ORDER:

The petitioner was appointed as fair price shop dealer of Shop No.15 of Nallagutlapalli Village, O.D. Cheruvu Mandal, Anantapuram District. On a report, dated 08.04.2015, submitted by the 3rd respondent, the 2nd respondent issued show cause notice on 10.04.2015 framing 6 charges against the petitioner. Against the same, the petitioner earlier filed W.P.No.13272 of 2015 and this Court disposed of the said writ petition by order dated 30.04.2015 directing the 2nd respondent to conduct enquiry and pass final orders in respect of the allegations levelled against the petitioner. The petitioner thereafter, submitted explanation dated 4.07.2015 and after considering the same, the 2nd respondent passed impugned order dated 01.08.2015. Challenging the same, the present writ petition is filed.

The charges levelled against the petitioner read as follows:

Charge No.1: That the F.P. Shop dealer is distributing the rice with less weighment of 0.02 kgs., for 5 units and 0.01 Kg for 4 units and 0.03 kgs for AAY card. Thus, he contravened the Clause 7 (i) of A.P. S. Public Distribution System (Control) Orders, 2008.

Charge No.2: That the F.P. Shop dealer is distribution the K. Oil with less weighment of ½ litre i.e. 01 ½ litres instead of 0.02 litres and wrongfully gained for himself and caused loss to the card holders. Thus, he contravened the Clause 7(i) of A.P.S. Public Distribution system (Control) Orders, 2008.

Charge No.3: That the F.P. Shop dealer did not distribute the additional quota of rice for Ugadi festival at ½ kg per card holders and misused the same for his personal benefit and caused loss to the card holders. But the dealer has made entries that he has distributed 1 Kg Sugar for March, 2015 in the Sales Register, even though the card holders are received only ½ Kg per card holder. Thus, he contravened the Clause 7

(i) of A.P. S. Public Distribution System (Control) Orders, 2008.

Charge No.4: That the dealer has been distributing the other commodities i.e., Surf Powder, Washing Soaps, jiggery every month which are not supplied to the dealer through M.L.S. Point under P.D. System and pressurised the card holders to purchase the said items compulsorily and caused pressure to the card holders to gain personal benefit and thus, the dealer contravened Clause 19(b) of A.P.S. Public Distribution System (Control) Orders, 2008.

Charge No.5: The F.P. Shop dealer is not distributing the E.Cs. In the authorised premises, and distributing at a different place, and violation of the conditions of Authorisation. Thus, the dealer violated the condition No.6 of Authorisation.

Charge No.6: That there is a shortage of 1.95 Kgs of sugar in the F.P. Shop at the time of inspection. But, the dealer has registered in the stock register that he distributed the entire stock of sugar. Thus, the dealer has misappropriated 1.95 Kgs of sugar for his personal benefit by black marketing the same.

The petitioner denied the above charges in his explanation.

When the petitioner denied the charges, the respondent should have led evidence as the said allegations cannot be proved on the basis of a show cause notice and reply. No enquiry was conducted by examining the cardholders who stated that they were given commodities with less weightment and were forced to take the commodities which were not meant for public distribution. The other allegations also required to be enquired by production of evidence from the cardholders. This is not a case of allegation and denial, which can form basis for opinion.

In the circumstances, this Court is satisfied that the order passed by the 2nd respondent dated 01.08.2015 is not based on any enquiry, and the findings recorded therein are vitiated. In view of the same, the impugned order dated 01.08.2015 is set aside and the 2nd respondent is directed to conduct fresh enquiry in respect of the allegations and pass final orders thereon within a period of two months from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed. No order

as to costs.

31st August, 2015
Js.

A. RAMALINGESWARA RAO, J.