

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION NO.32031 OF 2015

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ORDER:

The petitioner was appointed as permanent Fair Price Shop dealer of Shop No.8016 of Chandru Thanda village, Tirumalayapalem Mandal, Khammam District. The Tahsildar, Thirumalayapalem, submitted a report to the 2nd respondent on

10-09-2013. Basing on the same, the authorisation of the petitioner was suspended vide proceedings, dated 12-09-2013. 6-A proceedings were initiated against the petitioner and the Joint Collector passed an order on 08-12-2014 ordering confiscation of 100% of the value of the seized stock. Thereafter, a show cause notice was issued by the 2nd respondent on 30-01-2015 and the petitioner submitted his explanation on 03-02-2015. Thereafter, the authorisation of the petitioner was cancelled by the 2nd respondent, vide order, dated 28-08-2015. Challenging the same, the present writ petition is filed.

2. A perusal of the order of cancellation shows that no enquiry was conducted. The order of cancellation reads as follows:

“In response to the show cause notice, the FP show dealer has submitted his written explanation stating that he was running FP shop since 13 years. The MRI who inspected the FP shop has reported that 210 ltrs of K.Oil excess quantity is available in the FP shop, but the FP shop dealer stated that he has received K.Oil on 24-08-2013 and he has less time to distribute to the card holders in the month and hence he continued distribution on 1st, 2nd, 3rd of the next month. Hence he has given closing balance report as ‘Nil’ on 31-08-2013. Regarding wheat 4.30 qtls he stated that the wheat was loaded at MLS point along with Mahamadapuram-II FP shop stock and unloaded at Mahamadapuram-II FP shop. Hence there is a variation on the ground balance when compared to book balance and not committed any mistake and persuaded to excuse as a first mistake.

The explanation of the FP shop dealer is not satisfactory and not tenable and it is an afterthought to escape and no merits are found in the explanation. The main charge of the FP shop dealer is improper maintenance of records, denying supplies to the legitimate card holders, by accumulating the PDS

commodities, he was indulging in clandestine business of PDS commodities and diverting the same into black market for his pecuniary gains. Hence, the charges framed against the FP shop dealer are held proved.

In view of the above, the authorisation of the FP shop dealer Sri B.Babu Rao Shop No.8016 of Chandruthanda (V) of Tirumalayapalem Mandal is hereby cancelled under clause 5 (5) of the APSPDS control order, 2008."

3. Learned counsel for the petitioner brought to the notice of this Court a letter of the 2nd respondent, dated 13-02-2015 addressed to the Tahsildar, Tirumalayapalem asking the Tahsildar to offer remarks for taking further action. The said letter was not referred to in the impugned order of cancellation. In the absence of any enquiry, it is clear that the 2nd respondent relied on the report of the Tahsildar, Tirumalayapalem and cancelled the authorisation of the petitioner. In view of the violation of principles of natural justice, the impugned order of cancellation of authorisation of the petitioner passed by the 2nd respondent, dated 28-08-2015 is liable to be set aside.

4. Accordingly, the writ petition is allowed at the stage of admission setting aside the impugned order, dated 28-08-2015. However, the 2nd respondent is directed to conduct an enquiry pursuant to the show cause notice, dated 30-01-2015 and pass final orders thereon within a period of 2 months from the date of receipt of a copy of this order after giving due opportunity to the petitioner No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 01-10-2015

Note: Issue CC in one week

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