

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.6479 of 2015

ORDER:

The petitioner was appointed as a Fair Price Shop dealer of Shop No.50, Venkatanayuni Palli Village, Dhone Mandal, Kurnool District, on permanent basis. The authorisation of petitioner was valid upto 31.03.2015. The petitioner submitted a challan for renewal of authorisation within the prescribed time. While so, the authorisation of the petitioner was suspended on 12.06.2014 by the second respondent, challenging the same the petitioner filed W.P. No.17929/2014 while filing an appeal to first respondent. The said writ petition was disposed of on 08.07.2014 directing the first respondent to supply the essential commodities to the petitioner, as the order did not specify whether the authorisation was suspended or cancelled. After receipt of the copy of the order, the second respondent reviewed his order and issued a fresh order of suspension on 21.07.2014. That order of suspension was challenged by the petitioner in W.P.No.24981/2014 and this Court disposed of the said writ petition on 04.09.2014 setting aside the order of suspension by giving liberty to the second respondent to conduct an enquiry and pass appropriate orders. After receipt of a copy of the order, a show cause notice was issued to the petitioner on 30.09.2014 while implementing the orders of this Court by proceedings dated 24.10.2014. Another show cause notice was issued on 19.11.2014 and the petitioner submitted his explanation on 26.11.2014. It appears that thereafter the cardholders submitted a representation on 04.12.2014, on the basis of which, the matter was referred to the Tahsildar, Dhone, on 30.12.2014 by the second respondent. After obtaining a report from the Tahsildar on 04.02.2015, the authorisation of the petitioner was cancelled on 24.02.2015. Challenging the same,

the present writ petition is filed.

At the time of admission of the writ petition, this Court, by order dated 19.03.2015 granted interim suspension and directed the respondents to continue the petitioner as Fair Price Shop dealer until further orders. Thereafter, when the learned counsel for petitioner was continuously absent on two occasions, the interim order granted earlier was vacated by order dated 13.08.2015 and W.V.M.P.No.1443/2015 was allowed. Within fifteen days thereafter, the petitioner filed W.P.M.P.No.35387/2015 stating that the learned counsel for petitioner was out of station for attending a death ceremony, as a result of which he could not appear in the case, and, on being satisfied with the said reason, this Court passed an order on 31.08.2015 recalling the order dated 13.08.2015 and the Office was directed to post the matter for further orders. Accordingly, W.V.M.P. No.1443/2015 is coming up. When the said petition is taken up for consideration, the learned counsel for both sides agreed for disposal of the writ petition itself.

The main allegation levelled against the petitioner appears to be that the petitioner was not distributing the essential commodities properly, he was distributing only two days throughout the month with less weighment and at higher rates. The petitioner submitted his explanation. It appears that the matter was referred to the Tahsildar, Dhone, for enquiry and all the cardholders appeared before him, but the petitioner or his son was not present at the time of enquiry. 53 cardholders have stated that they received Kerosene only 1½ litre instead of 2 litres. Thus, the Tahsildar submitted a report wherein the following irregularities were noticed.

- “1. The F.P. Shop dealer Sri V.Chinna Ramudu is suffering from paralysis stroke and not residing in the said village. He has not applied any medical leave.
2. His son Sri V.Yella Ramudu is maintaining the F.P. Shop irregularly.
3. There is a Criminal Case in FIR No.14/2012 in Dhone Rural Police Station and Charge Sheet was filed against Sri V.Yella

Ramudu. Another Criminal Case in FIR No.34/2012 in Tuggali Police Station was filed against Sri V.Yella Ramudu and his father Sri V.Chinna Ramudu who is the F.P. Shop dealer of Shop No.50 of Venkatanayunipalli Village of Dhone Mandal.

4. He has not distributed Essential Commodities to the 40 cardholders for the month of November-2014, December-2014 and January-2015 not shown closing balance it means he diverted the stocks to black market.
5. As per the acquittance the Signatures/Thumb impressions are not tallied thus he has not distributed the Chandranna Sankranthi Kanuka gift packets to the 40 cardholders.”

The report of Tahsildar further states that in respect of 64 cardholders, who were not present in the village, the stock of those 64 persons was misused by the dealer. Ultimately, the order of cancellation was passed holding as follows:

“Finally, the Tahsildar, Dhone has recommended for initiation of disciplinary action against the F.P. Shop dealer as his explanation is pending in the court of Revenue Divisional Officer, Kurnool for issuance of final orders.

The F.P. Shop dealer is violated the clause 7(1), 22(vi) and 22(viii) of APPDS (Control) Order, 2008 and breached the conditions mentioned in the F.P. Shop authorization.

On perusal of the charges and explanation submitted by Sri V.Chinna Ramudu, it is concluded that the explanation is not convincing the charges and also not proper. Therefore the F.P. Shop authorisation of Sri V.China Ramudu F.P. Shop dealer Shop No.50 of Venkatanayunipalli Village, Dhone Mandal is here by cancelled.”

It is clear from the above order that no enquiry was conducted by the second respondent himself pursuant to the allegations made against the petitioner in the show cause notice dated 30.09.2014 or after submission of the report by the Tahsildar dated 04.02.2015. The impugned order of cancellation of authorisation was passed on the basis of the explanation submitted by the petitioner and the report of the Tahsildar, Dhone, dated 04.02.2015. When nearly 50 cardholders made allegations against the petitioner, the second respondent should have conducted an enquiry and examined those cardholders in the presence of the petitioner. No such effort was made. Since the order of cancellation of authorisation is a final order, the petitioner should

be heard and enquiry should be conducted in the presence of the petitioner. In view of the same, this Court is satisfied that the impugned order of cancellation dated 24.02.2015 was passed without following the principles of natural justice and is accordingly set aside.

However, the second respondent is directed to conduct an enquiry in respect of the allegations levelled against the petitioner in the show cause notice dated 30.09.2014, 19.11.2014 and the report of Tahsildar dated 04.02.2015 and pass final orders after giving due opportunity to the petitioner. In view of the interim order passed by this Court on 19.03.2015, the petitioner shall be continued as dealer.

Accordingly, this Writ Petition is allowed to the extent as indicated above. There shall be no order as to costs.

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

A.RAMALINGESWARA RAO, J

28.10.2015

Note: Issue C.C in one week

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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