

IN THE HIGH COURT OF JUDICATURE; AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION No. 24111 of 2015

BETWEEN

Chalamcherla Subhashini

...Petitioner

And

The Sate of Andhra Pradesh,
Rep. by its Principal Secretary,
Civil Supplies Department, Secretariat,
Hyderabad and ors.

...Respondents.

DATE OF JUDGMENT PRONOUNCED: 03.08.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

1. Whether reports of Local newspapers
may be allowed to see the judgments? YES/NO

2. Whether the copies of judgments may be
marked to Law Reporters/Journals. YES/NO

3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment ? YES/NO.

**HONOURABLE SRI JUSTICE
A. RAMALINGESWARA RAO**

WRIT PETITION No. 24111 of 2015

ORDER:

Heard learned Counsel for the petitioner and learned Government
Pleader for the respondents.

The petitioner was appointed as Fair Price Shop Dealer for Shop No.23
of Potluru village, Gudur Mandal, Prakasam District. Pursuant to a compliant
given by the villagers, the Fair Price Shop of the petitioner was stated to have

been inspected by the Mandal Revenue Inspector and submitted a report to the Tahsildar, Gudlur Mandal, who in turn sent a report to the second respondent on 30.01.2015. Based on the said report, the second respondent issued show cause notice dated 04.06.2015 to the petitioner. The petitioner submitted his explanation on 16.06.2015 denying the allegations levelled against her. Being not satisfied with her explanation, the second respondent by order dated 15.7.2015 cancelled the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

From a careful perusal of the impugned order, it indicates that the report of the Tahsildar was not furnished to the petitioner and no enquiry was conducted while cancelling the authorization of the petitioner. In this regard, a Division Bench of this court in **M.Kalyani Vs. District Collector, Prakasam district, Ongole** {2006(5) ALD 796 (DB)} held as follows:

“In our opinion, the order passed by respondent No.3 cancelling the authorization of the appellant suffers from patent violation of the rules of natural justice and the learned Single Judge gravely erred by refusing to annul the same. It is not in dispute that the report of the Mandal Revenue Officer, which formed the basis of the charges, was not supplied to the appellant. In **K.Radha Krishna Naidu v. Director of Civil Supplies, Hyderabad and others**, 1996 (1) ALD 473 = 1996 (1) LS 456 (AP), it was held that the primary report on the basis of which the charges were framed by the Licensing Authority against the dealer, being not furnished to the dealer, vitiates the proceedings due to violation of the principles of natural justice and absence of sufficient opportunity to the dealer to defend his case effectively. It was further held that the reasonable opportunity should be real and effective and simply because the petitioner submitted his explanation, it does not fulfill the requirement of reasonable opportunity, more so, when the show cause notice would clearly indicate that the only basis is the report. In that case the petitioner therein had been given opportunity of personal hearing but even then the Court held that the opportunity was not real inasmuch as the basic document had not been supplied to the dealer. In **S.Malla Reddy v. M. Vijayalakshmi and others**, 2005 (3) ALT 100 = 2005 (5) ALD (NOC) 174, this Court held that the authorization of fair price shop could not have been cancelled on the basis of vague notice.”

Further, a Division Bench of this Court in **Ambati Srinivasulu Vs. District Collector {2006(1) ALT 273 (DB)}** opined that rules of natural justice are multi-faceted and multi-dimensional and the power of judicial review can be exercised only when the order of the quasi judicial authority contains reasons. Pertinent to see, the impugned order discloses no proper reasons while cancelling the authorization of the petitioner.

Thus it is clear that when the order of cancellation is passed based on a report, that report should be furnished to the dealer. It appears that the order of cancellation has been passed based on the report of the Tahsildar. In the absence of proper reasons and non supply of copy of the report of the Tahsildar, the impugned orders passed by the second respondent are vitiated. The second respondent has abdicated his power. In these circumstances, this Court is inclined to set aside the order dated 15.7.2015 passed by the second respondent cancelling the authorization of the petitioner.

The Writ Petition is accordingly allowed. However, this order will not preclude the second respondent from conducting an enquiry in respect of the charges levelled against the petitioner and pass appropriate orders thereon in accordance with law.

Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 3rd August, 2015.

Msnr_x

