

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.17133 of 2015

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies. The Writ Petition is being disposed of at the stage of admission with the consent of parties.

The petitioner was appointed as a fair price shop dealer of shop No.8, Penubarthi Village, Gurla Mandal, Vizianagaram District. The Deputy Tahsildar (Civil Supplies), Nellimarla, along with his staff, visited the shop of the petitioner on 15.09.2014 and noticed some variation in the stock, and initiated 6-A proceedings against the petitioner. The said proceedings ended in confiscation of 50% of the stock seized. However, basing on the same charges, the third respondent issued a show cause notice, to which the petitioner submitted his explanation. After receipt of explanation, the third respondent passed the impugned order on 05.06.2015. Challenging the said order, the present Writ Petition is filed.

The charges levelled against the petitioner are as follows:

“Charge 1: When verified with the sales register you have distributed 5.56 Qtls. of PDS rice, but as per the statement given by the cardholders distributed 3.96 Qtls. of PDS rice and remaining 1.60 Qtls. was not given to migrated, married and death units and also found excess of 0.84 Qtls. of PDS rice. Hence, it is revealed that you have violated the clause 17(b), 17(c) of A.P., PDS Control (Order), 2008. Hence the charge.

Charge 2: Being a responsible F.P.Shop Dealer, you have not maintained records properly and not distributed Essential Commodities to the cardholders properly and violated the conditions laid down in A.P.PDS Control (Order), 2008. Hence, the charge.”

So far as the first charge is concerned, the allegation is with regard to 0.84 quintals and the petitioner received 5.56 quintals and the said variation comes within the permissible limit of 1.6 quintals. The second charge relates to non-mention of records properly, for which the petitioner submitted his explanation. He studied upto 9th class only and the mistakes that occurred in

the maintenance of records may be condoned. Without applying his mind to the explanation submitted by the petitioner, the third respondent passed the impugned order with the following observations:

“Perused the explanation and found not sustainable. Being a responsible dealer, it is observed that, the dealer has distributed 5.56 Qtls of PDS rice, but as per the statement given by the cardholders distributed 3.96 Qtls. of PDS rice and remaining 1.60 Qtls. was not given to migrated, married and death units and also found excess of 0.84 Qtls. of PDS rice. It is revealed that there is ample evidence that the dealer has diverted the stock to the black market for illegal gain and violated clause 17(b) and 17(c) of A.P PDS Control (Order), 2008. Hence the authorization of the dealer is hereby cancelled.”

This Court noticed that the impugned order passed by the third respondent is a copy of the order passed by the second respondent. The allegations are also same. There are no individual findings and no enquiry was conducted with regard to the allegations. Obviously, no enquiry was conducted as the charges levelled against the petitioner in 6-A proceedings are similar to the charges framed in the show cause notice.

In the circumstances, this Court feels that the petitioner suffered twice for similar charges. In view of the permissible variation in quantity, and in view of the explanation submitted by the petitioner with regard to maintenance of records, this Court feels that it is a fit case for interference and the order of the third respondent dated 05.06.2015 is set aside.

The Writ Petition is, accordingly, allowed at the stage of admission.

Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of. No order as to costs.

A. RAMALINGESWARA RAO,J

Date:16.06.2015

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