THE HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

W.P.No.14462 of 2015

ORDER

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies for respondents.

2. The petitioner was appointed as fair price shop dealer on permanent basis in the year 2004. It appears that the third respondent inspected the shop of the petitioner and submitted a report to the second respondent, basing on which, a show cause notice was issued on 27.03.2015 framing 6 charges against the petitioner. The petitioner submitted his explanation for each charge on 04.04.2015. While so, the second respondent passed an order of cancellation of authorization of the petitioner on 04.04.2014 (sic) 04.04.2015.

3. This Court perused the impugned order passed by the second respondent and noticed that charge Nos.2 to 5 are simple charges and vague. In respect of charge No.1, which pertains to variation, levelled against the petitioner, learned counsel for the petitioner submits that the said variation is within the permissible limits. The petitioner also submitted an explanation to the said charge. The finding recorded in respect of charge No.1 is that excess of 17 Kgs of rice found in the business premises was with an intent to divert the stock to black market. Merely because of some variation, the respondents should not have come to the conclusion that the dealer was having an intention to divert the stock in black market. It is admitted by both the learned counsel that the dealer can have 1.5% excess stock in relation to the allotted stock. When it is admitted that 40.56 quintals is the quantum of allotment, variation of 17 Kgs would come within the permissible limit.

4. Similarly, when there is an allegation in Charge No.6 that the dealer should

exhibit the price of each commodity in the fair price shop, the finding recorded is that during the course of inspection, no price list-cum-stock board was exhibited in the business premises. This finding is not based on any enquiry as the explanation of the dealer is that he has exhibited the stock board. It is an admitted fact that the second respondent did not inspect the shop, but the charge was framed based on the report of the Tahsildar. Some documentary evidence, like photograph, showing the absence of the stock board should have been pressed into service. In this manner, he dealt with the charges and passed an order of cancellation of authorization. This manner of approach is not acceptable and expected from a quasi judicial authority.

5. It is also brought to the notice of this Court that on earlier two occasions, this Court interfered in W.P.Nos.26883 and 33008 of 2014 when the second respondent tried to fix the charges.

6. In the circumstances, the Writ Petition is allowed setting aside the impugned order. However, the matter is remanded to the second respondent for consideration of the charges afresh on the basis of the explanation submitted by the petitioner by duly giving an opportunity of personal hearing to the petitioner and pass a reasoned order in accordance with law, within a period of 30 days from the date of receipt of a copy of this order.

7. The Writ Petition is, accordingly, allowed. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A. RAMALINGESWAR RAO, J

4th June, 2015

sj