

HON'BLE SRI JUSTICE R. KANTHA RAO

WRIT PETITION No.6205 OF 2015

ORDER:

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

The shop of the petitioner, who is a Fair Price Shop (FPS) Dealer, was inspected by the authorities on 07.11.2014 and certain irregularities were noticed by them. A show cause notice was issued to the petitioner informing about the irregularities and seeking explanation from him. The petitioner submitted her explanation. Thereafter, a final order was passed on 11.12.2014 cancelling her authorization as FPS dealer.

Learned counsel appearing for the petitioner submits that the cancellation order was passed mainly on the ground that the petitioner did not run the FPS as per the provisions of the Andhra Pradesh State Public Distribution System (Control) Order, 2008 and para-12 (xiii) of the annexure to the Order. According to the learned counsel, since the aforesaid ground has not been part of the charges levelled against the petitioner in the show cause notice, the impugned order is bad in law and is liable to be set aside.

On the other hand, learned Government Pleader for Civil Supplies submits that the petitioner preferred an appeal, which is pending with the Joint Collector, Machilipatnam, Krishna District, the 4th respondent, raising the same grounds.

It seems that even though three months time has elapsed, the Joint Collector neither disposed of the appeal nor passed any orders on the interim application filed in the appeal seeking suspension of the impugned order. Therefore, learned

counsel appearing for the petitioner seeks suspension of the cancellation order, during the pendency of the appeal before the Joint Collector.

As per the judgment rendered by a Division Bench of this Court in **Golla Venkata Rao v. Kuchipudi Ravindrababu** (W.A.No.1346 of 2014, dated 13.10.2014), during the pendency of the appeal before the authority, this Court is not supposed to pass any order suspending the impugned order, which is the subject matter of the challenge in the appeal. In the said appeal, the Division Bench held as under:

“The learned trial Judge by the impugned order disposed of the Writ Petition giving a direction to the revising authority to dispose of the revision within eight weeks from the date of communication of the order. While doing so, the learned trial Judge thought it fit to suspend the order challenged before the revising authority. It is contended by the learned counsel for the appellant that this should have been left to the revising authority and the learned trial Judge ought not to have granted interim relief. In our view, giving a direction to dispose of the matter on the one hand and granting interim relief on the other amounts to usurping of the revisional jurisdiction, at the first instance, unnecessarily. This appears to be apparent contradiction. We accordingly modify the impugned order of the learned trial Judge.”

Therefore, in the aforesaid circumstances, the Writ Petition is disposed of directing the Joint Collector, Machilipatnam, Krishna District, the 4th respondent, to dispose of the appeal within a period of eight (8) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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

JUSTICE R. KANTHA RAO

27.03.2015

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