

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.9246 of 2015

ORDER:

The petitioner was appointed as Fair Price Shop dealer of Shop No.4, Sanivada Village, Srikakulam Mandal, Srikakulam District. The authorisation of the petitioner was extending from time to time and was valid upto 31.03.2015. The fifth respondent stopped supplying commodities since August 2014 even without issuing any show cause notice to the petitioner. The petitioner made number of representations since August 2014. Later the fourth respondent herein suspended the authorisation by order dated 15.11.2014. It was followed by a show cause notice dated 18.11.2014. The petitioner submitted his detailed explanation to the fourth respondent on 04.12.2014. Challenging the order of suspension, the petitioner filed W.P.No.3044/2015, and this Court by order dated 18.02.2015 directed the respondents to continue the petitioner as FPS dealer by setting aside the proceedings issued by the respondents on 15.11.2014 till final orders are passed. Later the respondents, by proceedings dated 03.03.2015, without following the directions of this Court cancelled the authorisation of the petitioner without conducting any proper enquiry as contemplated under rules in force. Challenging the same, the present writ petition is filed.

A reading of the impugned order dated 03.03.2015 shows that without conducting any enquiry in respect of the allegations levelled against the petitioner the impugned order was passed with the following observations:

“It is submitted that the Allegations against FP shop dealer has not distributed Essential Commodities to the card holders in properly and issue K.Oil 1 ½ liter instead of 2 Litres per card holders and charged higher rates i.e Sugar ½ Kg @ Rs.7.50/- instead of Rs.6.75/- to the card holders. The FP shop dealer has draw the EC's by every month death and migrate

card holders and stock delivery into black market and thus the contravened provisions under Cl.4(ii), 5(16), 7(i), 17(a), 17(b), 17(c) of APS PDS (Control) Order, 2008. The FP shop dealer has not maintaining the records and that in respect of mid day meal rice it is clearly established that the FP shop dealer has contravened the violation of conditions of the FP shop dealer as per GO.Ms.No.4 Consumer Affairs by the Civil Supplies (CS) Dept. 19.02.2011 and CS control order.

The contention of the Petitioner is that he is working as FP shop dealer last 30 years, that no allegations against him and that the deletions of death and migrated etc., cards is the duty of the Tahsildar. During the enquiry in the village it is clearly established that he is not distribution of EC's properly. He is distributed K.Oil 1 ½ it only instead of 2 lts, he is charging higher rate for ½ Kg of sugar @ Rs.7.50/- instead of @ Rs.6.75/- Being a resident of village he should have well aware of the migration, death etc., cases in the village. He should not distribute EC's in the name of death migrated etc., cases. He should have reported the facts to the Tahsildar. Thus the explanation of the individual is not correct.

The card holders of Sanivada Village have approached this office frequently against the FP shop dealer, Sanivada through grievance cell for not distributing EC's properly to the Card holders and charged higher rates.

Therefore in the interest of card holders, I under Cl.5(5) of APS PDS (control) Order, 2008,. The FP shop authorisation of Sri Ungati Appalasuryanagaryana FP shop No.4, Sanivada Village of Srikakulam Mandal is here is by cancelled."

This Court cannot appreciate the said order in the absence of proper enquiry. In the circumstances, the impugned order dated 03.03.2015 is set aside by giving liberty to the fourth respondent to conduct an enquiry in respect of the allegations levelled against the petitioner and pass final orders thereon after giving due opportunity to the petitioner within sixty (60) days from the date of receipt of a copy of this order.

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

21.09.2015

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Date: 21.09.2015

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