

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.28391 OF 2015

ORDER:

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

2. The petitioner is the Fair Price Shop Dealer for Shop No.6, Kosigi village and Mandal, Kurnool District. The Fair Price Shop of the petitioner was inspected by the Tahsildar, Kosigi and noticed some irregularities. Thereafter, the Tahsildar, Kosigi submitted a report on 17-07-2015, based on which, the 3rd respondent issued show cause notice, dated 25-07-2015 to the petitioner. The petitioner submitted her explanation denying the allegations levelled against her. Being not satisfied with her explanation, the 3rd respondent by order, dated 07-08-2015 cancelled the authorization of the petitioner. Challenging the same, the present writ petition is filed.

3. This Court carefully perused the impugned order. The operative portion of the said order reads as follows:

“The report of the Tahsildar, Kosigi and the explanation of the dealer have been perused. On verification of the explanation of the dealer, it clearly shows that she is not maintaining the F.P. Shop regularly and not distributing ECS to the card holders properly. More over the explanations submitted by the dealer is not convincing. As the dealer has contravened/violated the condition of A.P.P.D.S. Control Order, 2008. The FP Shop dealership/authorization held by the dealer is hereby cancelled with immediate effect.”

When the petitioner has denied the charges levelled against her, burden is on the authorities to prove the charges and the petitioner cannot be asked to prove negative. A perusal of the impugned order indicates that no enquiry was conducted and only explanation of the petitioner was compared with the report of the Tahsildar and finally order of cancellation of authorization was passed. In the circumstances, this Court is inclined to set aside the order, dated 07-08-2015 passed by the 3rd respondent.

4. Accordingly, the writ petition is allowed setting aside the order, dated 07-08-2015, passed by the 3rd respondent. However, it is

open to the 3rd respondent to conduct an enquiry by following the due process of law and pass final order thereon. Till the enquiry is completed and final order is passed, the petitioner shall not be disturbed from her Fair Price Shop Dealership. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 03-09-2015

Hsd