

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

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WRIT PETITION No.26216 OF 2015

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Between:

Peerla Seetharam

.. Petitioner

And

The State of A.P.,
Rep. by its Principal Secretary, Civil Supplies Department, Secretariat,
Hyderabad and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 19-08-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.26216 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.6, Dabbapadu Village, L.N.Peta Mandal, Srikakulam District. While so, on 04.04.2015, the Enforcement Deputy Tahsildar along with the M.R.I-II, L.N.Peta and Village Revenue Officer, Pedakollivalasa, Srikakulam District, visited the shop of the petitioner, along with staff, and submitted a report. A show cause notice was issued on 08.04.2015 and the petitioner submitted his explanation on 21.04.2015. After considering the explanation, the petitioner's authorization was cancelled by proceedings in Rc.No.683/2015 CS dated 18.05.2015. Against the said order, the petitioner preferred an appeal to the second respondent. He also filed W.P.No.16610 of 2015 challenging the order of cancellation dated 18.05.2015. This Court, by order dated 12.06.2015, gave liberty to the petitioner to file an appeal within fifteen days from the date of receipt of a copy of the order and the appellate authority was directed to dispose of the appeal within a period of three months from the date of filing of appeal by the petitioner and the order of cancellation of authorization dated 18.05.2015 was suspended till the disposal of the appeal. Now the second respondent passed a final order on 04.08.2015. Challenging the same, the present Writ Petition is filed.

This Court carefully perused the order passed by the second respondent. The second respondent narrated the facts of the case and after narration, the contentions of the appellant are

extracted. After extracting the contentions, the impugned order in the appeal was passed with the following observations:

“The case is posted for final hearing on 01.08.2015. Case called. Appellant was attended. Oral explanation was furnished. No written statement filed. The appellant has failed to furnish proof of evidence that ECs are not being sold for excess rates, not opened everyday as per timings and also has not drawn ECs relating to migrants etc. before this Court also. Therefore, there seems to be no justification to interfere with the lower court order as the Revenue Divisional Officer, Srikakulam has passed a reasonable and speaking order following due process of law. Hence appeal is dismissed.”

A perusal of the above observations shows that no proper enquiry was conducted by the second respondent while disposing of the statutory appeal preferred by the petitioner. The petitioner is not expected to prove negative when the charges are levelled against him. It is for the authorities to prove the charges against the petitioner in a proper enquiry. The appellate authority cannot simply pass an order without conducting any enquiry and without giving due opportunity to the petitioner at the time of enquiry. The allegations relate to some minor variations in the quantity and in distributing the essential commodities only on one day in a month. There is another allegation that the petitioner is distributing PDS Kerosene 1½ ltrs. per each card instead of 2 ltrs. and charging more amount. There are other similar allegations in respect of sugar also. When the said allegations are there, the cardholders should have been examined in the presence of the petitioner in order to prove the charges. In the absence of such attempt, the order passed by the second respondent, confirming the order of the third respondent, is not sustainable in law.

Accordingly, the impugned order dated 04.08.2015 passed by the second respondent is set aside. The matter is remanded to the second respondent for conducting an enquiry against the allegations levelled against the petitioner and pass appropriate

orders thereon within a period of three months from the date of receipt of a copy of this order. Till such time, the order passed by this Court on 12.06.2015 shall continue to be in operation.

Accordingly, the Writ Petition is allowed.

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

A. RAMALINGESWARA RAO,J

Date:19.08.2015

Note:CC by 21.08.2015

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