

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 33135 of 2015

DATED 8th OCTOBER, 2015

BETWEEN

Payyavula Sai Kumar

....Petitioner

And

The State of Andhra Pradesh,

Rep. by its Secretary,

Consumer Affairs, Food and Civil Supplies (CS.D) Department

A.P. Secretariat, Hyderabad and ors.

...Respondents,.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 33135 of 2015.

ORDER:

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

The petitioner was appointed as Fair Price Shop Dealer for FP Shop No. 1 of Bhattavaripalle Town and Village, Karampudi Mandal, Guntur District on permanent basis in the year 2005. While so, the second respondent issued a show cause notice on 13.09.2010 framing two charges against the petitioner. Later on, the authorization of the petitioner was suspended. It was also followed by cancellation of authorization on 11.11.2010. After cancellation of authorization, a notification was issued on 14.02.2011 calling for applications for appointment of permanent Fair Price Shop Dealer of Bhattavaripalle village, Karampudi Mandal, Guntur, which has arisen due to cancellation of authorization of the petitioner. The petitioner filed Writ Petition No.8602 of 2011 wherein a counter affidavit was filed in the month of April, 2012 by the third respondent therein stating that the authorization of the petitioner was cancelled on 11.11.2010. Ultimately the said Writ Petition was dismissed by order dated 01.10.2015 giving liberty to the petitioner to challenge the order of cancellation of authorization dated 11.11.2010. In view of the said liberty, the present Writ Petition is filed.

The learned Counsel for the petitioner submits that a copy of the order of cancellation was served on the petitioner on 01.10.2015 only pursuant to his application dated 31.12.2014 and till date the petitioner was not aware of the order of cancellation.

From the averments made in the affidavit filed in support of Writ Petition No. 8602 of 2011 it is clear that the said counter affidavit was filed in the month of April, 2012 and hence he is aware of the cancellation in the year 2012 itself, but he had chosen to apply for supply of a copy of the order of cancellation dated 11.11.2010 after lapse of 2 1/2 years. After dismissal of Writ Petition No. 8602 of 2011, the petitioner has come with a plea that he was not aware of the order of cancellation of authorization and the same was not served on him. The main allegation levelled against the petitioner is that he was working as Home Guard/Wireless Operator in the office of the erstwhile District Police Officer, Guntur even prior to his appointment as Fair Price Shop Dealer and his brother was supplying the essential commodities to the cardholders. Now in the present affidavit, he submits that the show cause notice dated 13.09.2010 was

also not served on him.

Writ Petition No. 8602 of 2011 was filed immediately after issuing notification for filling up the vacancy of Fair Price Shop Dealer of Bhhattuvaripalle village on permanent basis which was caused due to the cancellation of petitioner's authorization. Even after filing the said Writ Petition, the petitioner did not make any effort to get a copy of the order of cancellation or to know the reason for notifying the vacancy. Obviously he was employed as home guard in the erstwhile office of the District Police Office, Guntur and was not residing in the Bhattuvaripalle village. A reading of the order of cancellation dated 11.11.2010 also makes it clear that the show cause notice was not served on him as he was not residing in the Bhattuvaripalle village and was working as Home Guard/Wireless operator in the office of the District Police Officer, Guntur and the same was confirmed by the concerned Mandal Revenue Inspector, Karempudi and Village Revenue Officer, Bhattuvaripalli Village. It appears that the petitioner submitted his explanation to the Revenue Divisional Officer, Narasaraopet consequent to the suspension of his authorization stating that he was not a regular appointee as Home Guard and he would come back to his village of Bhattuvaripalli. He also stated that he was unmarried and would not allow his brother to run the fair price shop any further and requested to restore his authorization. This explanation filed by the petitioner falsifies his plea as pleaded in para 3 of the affidavit filed in the present Writ Petition, which reads as follows:

" It is submitted that the said copy of the suspension order show cause notice was not furnished to the petitioner, after lapse of five years, the petitioner has filed a petition under Right to Information Act, 2005 for furnishing cancellation order and show cause notice, but the second respondent issued an endorsement on 28.01.2015 in Rc.No.29/2015-C furnished only suspension order in which the authorization of the petitioner was suspended on 20.08.2010 without furnishing the copy of the cancellation order."

If the petitioner had not received the show cause notice, he could not have filed said explanation. Therefore, it is obvious that he could have received the order of suspension and a copy of the same was furnished to him.

For the foregoing discussion, I do not see any reason to admit the Writ Petition.

In the result, the Writ Petition is dismissed with costs at Rs.1,000/- payable to the Andhra Pradesh Legal Services Authority. Further it is made clear that it is open to the Revenue Divisional Officer, second respondent herein to file a complaint against the petitioner before the concerned jurisdictional police station if it is found that the petitioner has suppressed material facts at the time of his appointment as Fair Price Shop Dealer.

Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence.

JUSTICE A. RAMALINGESWARA RAO

DATED 8th October, 2015.

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