

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION Nos.17146 and 17157 of 2015

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COMMON ORDER:

These Writ Petitions are being disposed of by this common order in view of the common point of law involved in the present Writ Petitions. Learned Counsel for the petitioners as well as the learned Government Pleader consented for disposal of the Writ Petitions at the admission stage.

The petitioners are fair price shop dealers of shop No.14 of Bogolu Village and shop No.23 of Sudepalli Village of Veldurthy Mandal respectively in Kurnool District. They were appointed on permanent basis. While so, orders of suspension were issued to the petitioners on 23.08.2014 and 10.10.2014 respectively on the ground that when the Tahsildar inspected the shops, he found certain irregularities. Challenging the said orders of suspension, the petitioners filed W.P.Nos.39175 of 2014 and 33531 of 2014. When the said Writ Petitions were taken up for consideration, it was submitted by the learned Government Pleader that proceedings were issued on 23.12.2014 and 17.11.2014 respectively whereby the authorisation of the petitioners was restored and basing on the said statement, the Writ Petitions were closed by order dated 23.12.2014 and 25.11.2014 respectively. When the petitioners apprehended action again, they got issued a legal notice on 17.03.2015 to the second respondent. While so, the second respondent issued proceedings on 22.05.2015 in respect of the petitioners on the same grounds as alleged in the earlier orders of suspension. Challenging the same, the present Writ Petitions are filed.

This Court, while posting the matters for orders and directing the learned Government Pleader to produce the records, suspended the impugned proceedings by orders dated 22.06.2015 respectively.

When the matter was taken up for consideration on 30.06.2015, the record was produced and this Court noticed that the orders dated 23.08.2014 and 10.10.2014 were passed by the second respondent on the basis of the alleged reports of the Tahsildar dated 20.08.2014 and 29.09.2014 respectively. The second respondent passed the order on 23.08.2014 holding that the said order was passed based on the report of the Tahsildar dated 20.08.2014 and ultimately held as follows:-

“On perusal, it is revealed that it is prima facie case, that the dealer has closed the Fair Price Shop and he was not present at the time of inspection and indulging in clandestine business by diverting the Essential Commodities in to black market. He violated the clauses provided in A.P.Public Distribution System (Control) Order, 2008 and breached the conditions mentioned in the Fair Price Shop authorisation.

In view of the above, the Fair Price Shop authorisation of Sri K.Venkata Rami Reddy, Fair Price Shop Dealer of Shop No.14 of Bogolu Village of Veldurthy Mandal is hereby suspended pending enquiry under Sub Clause (5) of Clause 5 of the A.P.State Public Distribution System (Control) Order, 2008.”

A similar order was passed by the second respondent in respect of the petitioner in W.P.No.17157 of 2015 on 10.10.2014 holding as follows:-

“On perusal, it is revealed that it is prima facie case, that the dealer has distributing the Essential Commodities less weightment and indulging in clandestine business by diverting the Essential Commodities in to black market. He violated the clauses provided in A.P.Public Distribution System (Control) Order, 2008 and breached the conditions mentioned in the Fair Price Shop authorisation.

In view of the above, the Fair Price Shop authorisation of Smt.M.Thriveni, Fair Price Shop Dealer of Shop No.23 of Sudepalli Village of Veldurthy Mandal is hereby suspended pending enquiry under Sub Clause (5) of Clause 5 of the A.P.State Public Distribution System (Control) Order, 2008.”

As already stated above, when the Officer, who passed the orders, was asked to be present in this Court, he appeared before this

Court and stated that he restored the authorisation, basing on which the earlier Writ Petitions were closed.

Now the present orders were alleged to have been passed on the reports of the Tahsildar dated 30.04.2014(2015) and 27.04.2014(2015) respectively. The record reveals that on an earlier occasion the cardholders submitted a representation on 30.07.2014 to the then Tahsildar alleging certain irregularities against the petitioner in W.P.No.17146 of 2015. Thereupon, an enquiry was ordered by the Tahsildar. The Village Revenue Officer enquired the matter and prepared a statement of enquiry, which was forwarded by the Village Revenue Inspector to the Tahsildar. The report of the Village Revenue Inspector as well as the Mandal Revenue Inspector did not bear any date, but it was alleged to have been received by the Tahsildar on 18.08.2014. On 20.08.2014, the said report was sent to the second respondent, who initiated enquiry and initially suspended the authorisation of the petitioner in W.P.No.17146 of 2015. As stated above, it ultimately ended in restoration of authorisation. In spite of the so called enquiry, why the authorisation was restored, as stated by the second respondent when he was present in the Court which led to closure of the Writ Petition, is not known. However, in respect of the present order of suspension, when the record was called, it is noticed that a printed complaint was prepared and signatures of more than 100 cardholders were taken on 17.03.2015, which created an impression on this Court that the said record was prepared in order to take some action against the dealer. The printed matter is identical and the signatures/thumb impressions of the cardholders were obtained on the printed matter. This is not what is expected from a responsible Officer like the Tahsildar. This shows that the Tahsildar, Veldurthy Mandal, Kurnool District, was acting at the behest of some people to take action against the dealer. The Officers are supposed to be independent and should not succumb to the pressure. If there is any allegation against the dealer, an unbiased *prima facie* enquiry should be conducted and on

the basis of the same, it is open to the concerned authorities to take necessary action. But, the Officers are not supposed to create record justifying the action. A perusal of the grounds of suspension indicate that they are trivial in nature and do not warrant suspension of authorisation pending enquiry.

In the circumstances, the impugned orders of suspension are set aside, but giving liberty to the second respondent to conduct an impartial enquiry by giving due opportunity to the petitioners and pass a reasoned order. The District Collector shall call for the file relating to File No.D.Dis.B.172/2014 from the Office of the Tahsildar, Veldurthy Mandal, Kurnool District, and see whether the statements alleged to have been made by the cardholders on 17.03.2015 can be said to be voluntary and enquire the person, who is responsible for printing such printed statements, and take necessary action by initiating necessary departmental proceedings against the persons responsible.

The Writ Petitions are allowed, to the extent indicated above. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

10.07.2015

Note: LR copy to be marked. No

B/o.

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