

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.20056 of 2011

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Between:

Dudla Vijaya Janardhan Reddy

PETITIONER

AND

The Revenue Divisional Officer,
Bandar, Krishna District.

RESPONDENT

ORDER:

This writ petition is filed questioning the proceedings dated 14.06.2011 passed by the respondent suspending the authorization of the petitioner.

The petitioner was appointed as fair price shop dealer of Shop No.88 of

Kamsalipalem Village, Bandar Mandal, Krishna District, in the year 1991. On 03.06.2011, the Civil Supplies Deputy Tahsildar issued show cause notice dated 04.06.2011 alleging that the petitioner contravened the conditions stipulated in the A.P. Public Distribution System (Control) Order, 2008 (for short the Control Order, 2008') and submitted a report to the respondent-Revenue Divisional Officer. The petitioner submitted his explanation on 06.06.2011. The respondent, without conducting any enquiry and without considering his explanation, in a hasty manner passed the impugned order dated 14.06.2011 in violation of Clause 5(5) of the Control Order, 2008. Hence the present writ petition.

Learned counsel for the petitioner submits that though explanation was called for by the respondent before passing the order, no opportunity of hearing was granted to the petitioner as required under Clause 5(5) of the Control Order, 2008. It is also the contention of the learned counsel for the petitioner that penalty by way of suspension of authorization for a period of three months was made against the petitioner. In as much as the petitioner was not given any opportunity of hearing, the order passed is *ex facie* illegal and the same is liable to be set aside.

On the other hand, in the counter affidavit filed by the 1st respondent, it is stated that the order dated 14.06.2011 is only an order passed pending enquiry as the respondent sought report from the Tahsildar within two weeks to take final action in the matter.

Though there was a controversy as to whether the order dated 14.06.2011 was suspension pending enquiry or final order as a measure of punishment, once the contention of the petitioner is accepted that the order came to be passed without providing an opportunity of hearing, the same would be in clear violation of Clause 5(5) of the Control Order, 2008. In that view of the matter, though the respondent had recorded certain findings, the same are required to be considered as *prima facie* expression of opinion for the purpose of passing the interim suspension of the authorization of the petitioner.

This Court while admitting the writ petition on 18.07.2011 granted interim suspension of the order dated 14.06.2011 and by virtue of the same, petitioner being continued to distribute the essential commodities.

In that view of the matter, interest of justice would be served if the order dated 14.06.2011 is set aside by remanding the matter to the respondent for concluding the enquiry initiated against the petitioner pursuant to the show cause notice dated 4.06.2011.

Accordingly, the writ petition is allowed setting aside the impugned order dated 14.06.2011. The matter is remanded to the respondent to complete the enquiry initiated against the petitioner, pursuant to the show cause notice dated 4.06.2011, within a period of eight weeks from the date of receipt of a copy of this order, and to pass appropriate orders in accordance with law after giving an opportunity of hearing to the petitioner and considering the material on record.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

19th November, 2015

Js.