

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.39834 of 2012

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Between:

Smt. P. Kanaka Durga

PETITIONER

AND

1. The District Collector, East Godavari District at Kakinada, and others.

RESPONDENTS

ORDER:

The order dated 13.12.2012 issued by the 2nd respondent canceling the fair price shop authorization issued in favour of the petitioner is under challenge in this writ petition.

The petitioner was appointed as fair price shop dealer on 10.09.2009 on regular basis in respect of shop No.10 of Uppudi Village, Katrinikona Mandal, East Godavari District and the said authorization was renewed from time to time. In the year 2002 Shop No.9 of Bantumilli Village Katrenikona Mandal, E.G. District was temporarily entrusted to the petitioner for a period of two months, on account of suspension of dealership of one Padamata Venkateswara Rao. The Vigilance and Enforcement Authorities inspected the said fair price shop No.9 and found that the shop was being run by one Akula Srirama Murthy and his wife, and accordingly issued a show cause notice to the petitioner. Though the petitioner submitted her explanation that the said Akula Srirama Murthy and his wife are only helping her, without considering the same the 2nd respondent withdrew the temporary dealership of the petitioner in respect of Shop No.9, and the petitioner did not make any grievance with regard to the said withdrawal.

However, surprisingly, show cause notice dated 11.10.2012 was issued to the petitioner as to why the dealership of the petitioner in respect of fair price Shop No.10, cannot be cancelled for the alleged violation of the conditions under which the temporary dealership of Shop No.9 was entrusted to her in the year 2002. The petitioner submitted her explanation admitting that Shop No.9 of Bantumilli Village was looked after by Sri Akula Srirama Murthy and his wife, who are only her helpers and are discharging duties for and on her behalf.

But, without considering the said explanation the 2nd respondent cancelled the authorization of the petitioner in respect of fair price Shop No.10 of Uppidi Village, Katrinikona Mandal, vide proceedings dated 13.12.2012. Hence the present writ petition.

Learned counsel for the petitioner contended that there are no allegations of violation of any of the conditions of the Control Order against the petitioner in respect of Shop No.10 and hence the proceedings dated 13.12.2012 issued by the 2nd respondent for the alleged violation of conditions committed in the year 2002 in respect of shop No.9, is bad in law.

This Court while admitting the writ petition on 27.12.2012 granted interim stay of all further proceedings. Though the writ petition is of the year 2012 so far no counter affidavit has been filed.

A perusal of the impugned order it is evident that the authorization of the petitioner in respect of shop No.10 of Uppidi Village, Katrinikona Mandal was sought to be cancelled for the alleged violation committed in the year 2002 in relation to the temporary dealership of Shop No.9 of Bantumilli Village. Further, the impugned order does not disclose any violation of conditions of authorization or Control Order in relation to Shop No.10 of Uppidi Village in respect of which the petitioner was appointed as permanent dealer. The explanation submitted by the petitioner was not considered and the same was brushed aside stating that there is violation of Clause 12(xiii) of the Andhra Pradesh Public Distribution System (Control) Order, 2001. A close reading of the said Clause leaves no manner of doubt that such violation should be in relation to the authorization, which was granted in favour of the petitioner.

In the present case, the petitioner was an authorized permanent dealer of Shop No.10 of Uppidi Village. There is no specific allegation that there was any contravention of the Control Order in relation to running of Shop No.10. The respondent authorities have failed to consider the explanation submitted by the petitioner in proper

perspective. Therefore, the action of the respondents is arbitrary and unsustainable as there cannot be any punitive action in relation to allegation of violation of Control Order, which is unconnected with the authorization issued in favour of the petitioner in the year 2009, that too, after a lapse of 7 years. In that view of the matter, the impugned order is unsustainable and is liable to be set aside.

Accordingly the writ petition is allowed setting aside the impugned order dated 13.12.2012 passed by the 2nd respondent.

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

CHALLA KODANDA RAM, J.

7th December, 2015
Js.