

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.4379 of 2015

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Education and the learned Government Pleader for Revenue.

Petitioner was supplying the mid-day meal as a mid-day meal operator since 2002 in the MPUP School of Kakkalapally Colony, Anantapur District. With regard to certain allegations of irregularities in the supply of mid-day meal, the petitioner was given a notice dated 10.02.2015 by the third respondent requiring the petitioner to submit explanation within two days. Petitioner however submits that the said notice was issued to him on 13.02.2015 and since 14.02.2015 Saturday happened to be holiday followed by Sunday, he submitted detailed explanation on 16.02.2015. It is however states that the impugned order was served on the petitioner dated 14.02.2015 removing the petitioner as an implementing agency and on the same day one Allipeera is stated to have been appointed as new implementing agency, who is stated to be operating since 21.02.2015, aggrieved thereby, the present writ petition is filed.

Petitioner's primary contention is that he was having hardly time for two days and even before considering the reply, he was removed as mid-day meal operator. The Government Pleader has received instructions from the third respondent, which states that on the date of complaint received against the quality of mid-day meal supplied and other irregularities, petitioner was given notice dated 10.02.2015 to submit explanation and the said notice was

sent to the head-master of the school for service on the petitioner. The third respondent states that the notice was stated to have been served on the petitioner on the same day and on the ground that no explanation is received, impugned order was passed and another mid-day meal agency, namely one Allipeera was appointed as operating as per orders dated 14.02.2015.

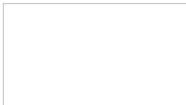
The similar issue was considered by this Court in Writ Petition No.9800 of 2013 and batch dated 30.12.2014 and appropriate directions were already issued to the State of Andhra Pradesh to be implemented by the officers concerned. Apart from the present issue being squarely covered by the said decision, even on the facts of this case as noted above, it is evident that the petitioner was given a show cause notice giving two days time to submit explanation. Since the said notice stated to have been served on the petitioner on 13.02.2015, petitioner was entitled to file explanation within two days and in view of 14th and 15th of February 2015 being holidays, as Saturday and Sunday, the petitioner filed explanation on 16.02.2015. It was therefore mandatory for the third respondent who have waited for the said representation be filed and take appropriate decision. The impugned order removing the petitioner on 14.02.2015 therefore cannot be approved as it clearly violates the third respondent's own show cause notice as well as principles of natural justice. The said impugned order is therefore set aside. The matter shall go back to the third respondent to consider the show cause notice and the explanation of the petitioner afresh. The new implementing agency which is presently appointed as mid-day meal operator shall not however be disturbed so as to ensure that the students, who get mid-day meal uninterrupted. The third

respondent shall however consider the show cause notice and the petitioner's explanation and also hear the newly appointed implementing agency and take a final decision in the matter within two weeks from the date of receipt of a copy of this order. Petitioner is also at liberty to submit additional explanation, if any, if he so desires.

Accordingly, writ petition is disposed of. No costs. The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date:02.03.2015
Rns.



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