

IN THE HIGH COURT OF JUDICATURE; AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION No. 24890 of 2015

BETWEEN

Mamidi Sattiram

....Petitioner

And

State of Andhra Pradesh,
Civil Supplies Department, Secretariat,
Hyderabad, rep. by its Secretary and ors.

...Respondents.

DATE OF JUDGMENT PRONOUNCED: 07.08.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

1. Whether reports of Local newspapers
may be allowed to see the judgments?
YES/NO

2. Whether the copies of judgments may be
marked to Law Reporters/Journals.
YES/NO

3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment ?

YES/NO.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 24890 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 Shop No. 7 of Tatavarikittali village, Gurla Mandal, Vizianagaram District. It appears that pursuant to the complaint lodged by the card holders, the fourth respondent inspected the fair price shop of the petitioner and submitted a report on 11.6.2015, based on which, the third respondent issued a show cause notice to the petitioner on 15.6.2015. The petitioner submitted his explanation. Being not satisfied with the same, the third respondent by impugned order dated 7.7.2015 cancelled the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

A bare reading of the impugned order discloses that two charges are levelled against the petitioner, namely, that the petitioner has not properly distributed the essential commodities to the card holders and that the petitioner has distributed the essential commodities to the dead persons and the persons who left the village. Denying the said allegations, the petitioner submitted his detailed explanation. However, the third respondent passed the impugned order cancelling the authorization of the petitioner by holding as follows:

“ On going through the explanation submitted by the dealer, no satisfactory reply is submitted. Being a responsible fair price shop dealer, he has not properly distributing the essential commodities to the card holders, issuing rice with less weight, as stated by the card holders as well as the elders of the village and also being a responsible fair price shop dealer, distributed essential commodities to other persons but no to the card holders who left the village viz., 1) Gushidi Atchaiah, S/o Appala Swamy 2) Samadula Sanyasi S/o Late Sanyasi 3) Kondru Appala Swamy, S/o Satyam 5) Kolli Narayana S/o Bangari and in the enquiry it was also reported that the dealer issued ration to the dead persons. It is proved that the dealer has indulged in irregularities and violated Clause 17(B) and 17 (C) of A.P.P.D.S.(Control and Supply) Order 2008 the authorization of the dealer of F.P. Shop No. 7 Tatavarikittili village, Gurla Mandal is hereby cancelled.”

Pertinent to see, when the petitioner has denied the charges levelled against him, burden is on the authorities to prove the charges and the petitioner cannot be asked to prove negative. A perusal of the impugned order indicates that no enquiry was conducted and only explanation of the petitioner was compared with the report of the Tahsildar and finally order of cancellation of authorization was passed. In the circumstances, this Court is inclined to set aside the order dated 7.7.2015 passed by the third respondent.

Accordingly the Writ Petition is allowed setting aside the order dated 7.7.2015 passed by the third respondent. However, it is open for the third respondent to conduct an enquiry by following the due process of law and pass final order there on. Till the enquiry is completed and final order is passed, the petitioner shall not be disturbed from his Fair Price Shop

Dealership.

The Writ Petition is allowed to the extent indicated above. Miscellaneous petitions pending consideration if any in the Writ Petitions shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 7th August, 2015.
Msnr_x