

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.8580 of 2015

ORDER:

Heard the learned counsel for petitioner and the learned Government Pleader for respondents.

2. The petitioner was appointed as a fair price shop dealer of shop No.27 of Turkapalli Village, P.C. Palli Mandal, Kandukur Revenue Division, Prakasam District on regular basis. The dealership of the petitioner is valid till 31.03.2016. The fourth respondent submitted a report on 27.12.2014, based on which, the third respondent issued a show cause notice to the petitioner on 12.02.2015 calling for explanation to the charges levelled against her. The petitioner submitted her explanation, and after receipt of the explanation, a final order was passed on 17.03.2015 cancelling the authorization of the petitioner. Challenging the same, the present writ petition is filed.

3. A counter-affidavit is filed by the fourth respondent stating that certain complaints were received from the cardholders on 15.12.2014 stating that the petitioner, pursuant to her marriage on 14.08.2014, is not residing in the village. Both the petitioner and her husband are working in a company situated at Bommanahalli, Karnataka State and the shop is being run by benami dealer by name K.Lakshma Reddy, who is not distributing the commodities properly. The Village Revenue Officer, Turkapalli Village, conducted an enquiry on 19.12.2014, in which the petitioner and the cardholders participated. In the said enquiry, the cardholders reiterated their allegations in respect of the petitioner. Accordingly, the Village Revenue Officer submitted a report to the fourth respondent on 26.12.2014, based on which, the Tahsildar submitted a report to the third respondent on 27.12.2014.

4. This Court, by order dated 10.07.2015, granted interim suspension on the

ground that in the report of the Village Revenue Officer dated 26.12.2014, which was obtained under Right to Information Act, it was stated that the allegation against the petitioner that she was residing in Bangalore, was not correct. The main allegation against the petitioner is that as per the report of the fourth respondent dated 27.12.2014, she was not residing in the village, but she was residing in Bommanahalli, Karnataka State along with her husband. In her explanation, she stated that at the time of her appointment as fair price shop dealer, she was not married and subsequently, in the month of August, 2014, she got married, but she has been residing in the same village along with her husband. The complaint of the cardholders is that the petitioner has been residing along with her husband in Bommanahalli, Karnataka State and one K.Lakshma Reddy is running the shop. He is obtaining the thumb impressions of the cardholders and using kerosene oil for running his tractor and he has not been properly distributing the commodities.

5. On the basis of the above allegations and counter-allegations, the third respondent passed an order on 17.03.2015 cancelling the authorization of the petitioner. A perusal of the order of cancellation shows that no enquiry was conducted by the third respondent and repeated the allegations leveled against the petitioner by the cardholders.

6. The learned counsel for the petitioner submitted a copy of the recorded statement of the Village Revenue Officer dated 26.12.2014 obtained under Right to Information Act. The information furnished by the Village Revenue Officer shows that the dealer studied engineering and she got employment in HGS Company. She married a person by name Subba Reddy, who is working in the same company and he is a resident of Gundemadugula Village, Vinjamuru Mandal, Nellore District. She has been continuing the job for the last 3 years, but the fair price shop is being run by her brother K.Lakshma Reddy. However, the Village Revenue Officer ultimately submitted that the petitioner got married and she has been taking the help of K.Lakshma Reddy. But, when he went to the shop on 19.12.2014, the dealer as well as her brother was in the shop and there is no evidence to show that she has been employed in HGS Company. He further stated that when he went for enquiry on 19.12.2014, there were no complaints from the villagers.

7. In view of the disputed facts, the third respondent should have gone into the report of the Village Revenue Officer and should not have relied on the report of the fourth respondent dated 27.12.2014. He should have conducted an enquiry with regard to the employment of the petitioner and her non-residence in the village. No such enquiry was conducted by the third respondent.

8. In the circumstances, the impugned order dated 17.03.2015 passed by the third respondent is set aside and the matter is remanded to the third respondent for conducting the enquiry with regard to the residence of the petitioner and her distribution of commodities as fair price shop dealer, taking into account the report submitted by the Village Revenue Officer on 26.12.2014.

9. The writ petition is, accordingly, allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 03.09.2015

TJMR