

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.20891 of 2015

ORDER:

The petitioner was appointed as a fair price shop dealer of shop No.37, Bethapalli Village, Gooty Mandal in Ananthapuram District. A show cause notice was issued to the petitioner on 24.03.2015 framing seven charges, and challenging the same the petitioner preferred an appeal to the Joint Collector, Ananthapuram, who remanded the case to the second respondent for completing the enquiry within a period of six weeks. Thereafter, the second respondent passed an order on 12.06.2015 cancelling the authorisation of the petitioner. Challenging the said order, the present Writ Petition is filed.

The papers filed along with the Writ Petition disclose that on an earlier occasion the same Officer issued a show cause notice on 03.09.2014 and on furnishing explanation by the petitioner to the said notice, he dropped the charges and restored the authorisation, by order dated 29.12.2014. While passing the said order also he opined as follows:-

“The records of the case have been examined. I feel that the charges framed against the FP Shop dealer are not grave in nature and they do not warrant any deterrent punishment.

Hence, I hereby restore the FP Shop dealership held by Sri H.Suryanarayana, FP Shop dealer, FP Shop No.37, Bethapalli Village of Gooty Mandal.”

Now the present proceedings are taken against the petitioner pursuant to a show cause notice dated 24.03.2015. The petitioner submitted his explanation and ultimately an order of cancellation was passed recording the findings as follows:

“Finding to charge No.2 to 7: The Mandal Revenue Inspector-I, Gooty has inspected the FP Shop. He has verified the FP Shop accounts and available ground balances in the premises of FP Shop. He has found variations of ECs in the

FP Shop. He has further enquired 75 cardholders in the village and recorded statement in writing. He has also taken written statement from Sarpanch of Bethapalli Gramapanchayat and two self help groups. All of them stated that the FP Shop dealer is not maintained working hours, distribution of ECs higher rates, supplying the ECs one or two days in a month, distributed 1½ liter of K.Oil in the village and also distributed the sugar once in three months. All of them are requested to take necessary action against the FP Shop dealer. The explanation filed by the suspended FP Shop dealer through his Advocate is far away from truth and not convinced. The above all charges are proved.

It seems that the F.P.Shop dealer has committed grave irregularities in distribution of ECs to the cardholders in the village and also inconvenience to the cardholders in the village.

In view of the above the explanation filed by the F.P.Shop dealer through his advocate Sri B.Ramachandra is not convinced and charges framed against the F.P.Shop dealer are proved.

I felt that deterrent punishment is necessary to keep away the FP Shop dealer from the public distribution system to safe guard the interest of the poor cardholders and also for smooth functioning of Public Distribution System.

Hence, the temporary F.P.Shop dealership held by Sri H.Suryanarayana, F.P.Shop dealer, F.P.Shop No.37, Bethapalli Village, Gooty Mandal is hereby cancelled.”

A perusal of the above order shows that the second respondent has delegated his power of enquiry to the Mandal Revenue Inspector-I, Gooty, and no enquiry worth its name was conducted after filing of explanation by the petitioner. The second respondent simply stated that the explanation filed by the dealer through his Advocate was not convincing and the charges were proved.

This Court commented with regard to the conduct of the second respondent on earlier occasions also and in spite of the same, the second respondent did not change his method of disposal of cases. The present case is an instance again, wherein he has followed his old method of disposal of cases. This is not what is expected from the second respondent. The second respondent is supposed to conduct a

fair enquiry, record findings in respect of each charge and then only shall take an action under the provisions of the Control Order.

Keeping in view the order dated 29.12.2014 and the present order dated 12.06.2015, this Court is convinced that the second respondent is acting in an arbitrary manner.

In the circumstances, the Writ Petition is allowed and the impugned order dated 12.06.2015 is set aside. However, if the second respondent feels that the cardholders are put to inconvenience and a complaint is received from the cardholders, it is open to him to draw a proper charge sheet, issue a show cause notice to the dealer in order to enable the dealer to submit proper explanation, and after considering the explanation and conducting enquiry in a fair manner, the second respondent should take action. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

08.07.2015
vs