

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

WRIT PETITION No. 23072 of 2015

BETWEEN

Chintu Appala Suramma

...Petitioner

And

The State of AP, rep. by its Secretary,
Food, Civil Supplies & Consumer Affairs Department,
Secretariat, Hyderabad and ors.

.....Respondents

DATE OF JUDGMENT PRONOUNCED: 27.7.2015.

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. 23072 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 Ayyavaripeta village, Gara Mandal, Srikakulam District. When the fourth respondent did not supply the stock, the petitioner approached this Court and filed Writ Petition No.31602 of 2014. The said Writ Petition was allowed by order dated 24.10.2014. While so, a show cause notice was issued by the third respondent on 20.2.2015 alleging variation in the quantities and the petitioner submitted her explanation on 6.3.2015. After considering the explanation and after hearing the petitioner in person on 25.4.2015, the impugned order dated 7.5.2015 was passed cancelling the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

This Court carefully perused the order dated 7.5.2015 passed by the third respondent, who held as follows while cancelling the authorization of the petitioner:

“ That the show cause notice issued to the FP shop dealer explanation submitted by him and evidence produced before the RDO has been examined. As per charges, there is a huge variation of 0.92 Kgs of PDS rice 74 liters of K.Oil and 58 Kgs sugar. The contention of the respondent that he has distributed the stock, that

inspecting officials has not verified properly is not correct. He has not submitted any affidavits and records from the card holders, that the dealer has distributed the stock to them. He has not produced any evidence in support of his explanation. The contention of the respondent that local TDP leaders with an intent to appoint their henchman as FP shop dealer, the Enf. Dy.Tahsildar and other staff inspected the depot is baseless and not correct. Further the contention of the petitioner that the inspection took place while she is distributing the stock and that there is a time up to evening for recording the stock is not correct. It is a fact that there is a time up to evening for making necessary entries in the stock register, but there in the sale register/distribution register the entries should be made as and when the distribution is completed to each card holder, but he has not made entries in the distribution/sales register. Hence the explanation is not convincing.

Therefore I under the powers vested to me under Cl.5(5) of APS PDS (Control) Order, 2008, the FP shop authorization of Smt. Chintu Appala Suramma, FP Shop dealer, Ayyavaripet village, Gara Mandal, is hereby cancelled.”

Pertinent to see, when the petitioner has denied the charges levelled against her, burden is on the authorities to prove the charges and the petitioner cannot be asked to prove negative.

It is for the authorities to prove the charges levelled against the dealer. In the circumstances, the order passed by the third respondent dated 7.5.2015 is set aside and the matter is remanded to the third respondent for conducting a proper enquiry afresh and passing reasoned orders within a period of three months from the date of receipt of a copy of this order.

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

JUSTICE A. RAMALINGESWARA RAO

DATED 27th JULY, 2015.
Msnr_x