

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**WRIT PETITION No. 16401 of 2015**

**ORDER:**

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

2. The petitioner was appointed as a Fair Price Shop Dealer of Shop No.13 of Terala Village, Durgi Mandal, Guntur District, in the year 2005. While so, on 28.04.2015 the Deputy Tahsildar (Civil Supplies), Macherla inspected the shop and found certain irregularities and recommended the case for initiation of 6-A proceedings to the Joint Collector, Guntur, while recommending to the 2<sup>nd</sup> respondent to initiate disciplinary proceedings. The 2<sup>nd</sup> respondent issued a show cause notice on 11.05.2015 alleging that the dealer was having 94 liters of kerosene less than the stock shown in the records. The petitioner submitted her explanation on 21.05.2015 specifically requesting to re-inspect the shop by another honest officer, as the Deputy Tahsildar (CS), Macherla did not inspect the shop in a proper manner. But the 2<sup>nd</sup> respondent suspended the dealership of the petitioner pending further enquiry, by an order dated 27.05.2015, holding as follows:

*"In this regard a show cause notice was issued to the said dealer on 11.05.2015 to offer her explanation about the said irregularity. The dealer submitted her explanation on 21.05.2015 with a request to re-inspect her shop by another honest officer and after that take suitable necessary action against her as the Civil Supply Deputy Tahsildar, Macherla did not inspect her FP shop in a proper manner. On careful examination of the explanation of the dealer and on examination of the 6A case filed by Civil Supplies Dy.Tahsildar, Macherla, and on physical verification there is a variation of 4.5 kgs of sugar as well as 94 ltrs of kerosene oil was found shortage and the same quantity was diverted by the dealer by not distributing to the cardholders. It implies the mollified intension of the dealer and diverted the stocks to the black market and the explanation submitted by the dealer is not reflecting the true facts findings in the inspection of the F.P. Shop and the dealer has concealed the facts and the explanation submitted by the dealer deserves no consideration and deserves for disciplinary action.*

*It is clearly presumed that the fair price shop dealer intentionally diverted the stock into black market for her personal gain which shows criminal intention of the dealer and which is contrary to EC Act and the Civil Supplies Deputy*

*Tahsildar, Macherla requested to take suitable disciplinary action for smooth distribution of essential commodities to the cardholders, the authorization of Smt. Ch.Vijaya Kumari, W/o Edukondalu, F.P.Shop Dealer of Shop No.13 of Terala Village of Durgi Mandal is hereby tentatively suspended until further orders, pending detailed further enquiry in this matter."*

3. In the impugned order dated 27.05.2015, the 2<sup>nd</sup> respondent added one more charge of variation of 4.5 kgs of sugar, when compared to ground balance and sales and stock registers. He came to the conclusion that the dealer intentionally diverted the stock into the black market for her personal gain, without coming to any prima facie conclusion based on proper reasons. Since the allegations are already leveled against the petitioner, which can be verified on the basis of the sales and stock registers, the suspension of the dealership at this stage is unwarranted. In the circumstances, the impugned order dated 27.05.2015 is set aside to the extent of suspending the dealership of the petitioner, but however, giving liberty to the 2<sup>nd</sup> respondent to complete the enquiry against the petitioner and pass final orders thereon after observing the principles of natural justice within a period of three months from the date of receipt of a copy of the order.

4. The Writ Petition is accordingly disposed of. Miscellaneous petitions, if any, pending in the writ petition shall stand closed. There shall be no order as to costs.

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**(A.RAMALINGESWARA RAO, J)**

11<sup>th</sup> June, 2015

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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