

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

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WRIT PETITION No.30037 OF 2015

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Between:

Smt Killari Ramanamma

.. Petitioner

And

The State of Andhra Pradesh,
Rep. by its Principal Secretary, Department of Civil Supplies,
Secretariat, Hyderabad and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 15.09.2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 30037 of 2015

ORDER:

The petitioner was appointed as a fair price shop dealer of shop No.13, Lenkapeta Village, Ranasthalam Mandal, Srikakulam District. The shop of the petitioner was inspected on 30.06.2015, and the petitioner was asked to produce authorization, stock register and sales register. The petitioner states that, though the said records were produced, for the reasons best known, the available stocks were seized on the basis of the report submitted by the Tahsildar, Ranastalam on 01.07.2015. The Revenue Divisional Officer, Srikakulam - third respondent herein issued a show cause notice on 03.07.2015 asking the petitioner to submit her explanation with regard to variation in the quantity of PDS rice. The petitioner submitted her explanation on 22.07.2015. Thereafter the petitioner was asked to attend enquiry on 17.08.2015 and, accordingly, she attended enquiry. After attending enquiry, an order of cancellation was passed on 28.08.2015. Challenging the same, the present Writ Petition is filed.

As per show cause notice dated 03.07.2015, 9.50 quintals of rice in 19 bags was found to have been excess and there was no opening balance. The case of the petitioner is that the total quantity available was received from MLS point on that day itself and there cannot be any scope for variation but the third respondent came to the conclusion that she has received 116 bags containing 55.45 quintals of rice on 30.06.2015. But the inspecting officials recorded 166 bags containing 57.95 quintals.

Ultimately, an order of cancellation was passed recording a finding that 9.50 quintals was excess in quantity. The quantity shown in the show cause notice, quantity found in enquiry, and the ultimate finding are at variance. The order reads as follows:

“The charges framed against the F.P. shop dealer and explanation submitted by him have been perusal and heard the arguments. The contention of the petitioner that the ECs received on truck at her FP shop while unloading the process, the inspecting officers entered into her shop along with mediators and recorded panchanama is not tenable. The contention of the petitioner that there is no release of M.D.M. Rice at the time is also not tenable as the inspection officers have not made any adverse on MDM Rice. As per the charges there is huge variation of PDS 9.50 qtls. excess. The explanation submitted by the F.P. shop dealer is found to be not convincing. The FP shop dealer has not submitted any evidence in support of his explanation. The FP shop dealer was not maintaining the price board properly. The rates of Rs.2/- are still exhibiting against the ECs of PDS rice and AAY Rice in the price board, whereas the Government has been providing the said ECs on 1 rupee rate per Kg. The FP shop dealer is storing and hoarding unauthorisedly of PDS stocks indulging in clandestine business by diversion in black market for illegal gains and contravened the provisions of clause 17(a), Cl. 17(b), Cl. 22(iv) and Cl. 22(v) of A.P.State Public Distribution System (Control) Order, 2008 and violated guidelines 4, 9, 12 for conditions of authorization and appointment of FP shop dealers as per G.O.Ms.No.4, consumer Affairs, Food and Civil Supplies (CS-I) Dept, dated 19.02.2011 read with Section 7 of EC Act, 1955.”

In view of the same, this Court feels that no proper enquiry was conducted on the basis of the available record. This Court is constrained to set aside the order dated 28.08.2015 and remand the matter to the third respondent for conducting a fresh enquiry, in accordance with law, after giving due opportunity to the petitioner, and also make the record available at the time of enquiry, and pass final orders thereon, within a period of three months from the date of receipt of a copy of this order. In view of setting aside of the order dated 28.08.2015, it is needless to observe that the petitioner shall be continued as a fair price shop dealer.

The Writ Petition is, accordingly, allowed.

Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of. No order as to costs.

A. RAMALINGESWARA RAO,J

Date:15.09.2015

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