

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 12639 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.51 of Kondavalasa Village, Regidi Amadalavasa Mandal, Srikakulam District, about 30 years back. While so, on 07.02.2015 the Assistant Supply Officer, Palakonda Division, visited the shop along with the Deputy Tahsildar, Palakonda, and though they did not notice any variation, they initiated 6-A proceedings. The 2nd respondent issued a show cause notice on 25.02.2015 framing two charges against the petitioner. The petitioner submitted his explanation to the charges clearly specifying the answers in four pages on 13.03.2015. After receipt of the explanation from the petitioner, the impugned order was passed by the 3rd respondent holding as follows:

“Sri B.Ramarao, F.P.Shop dealer, Kondavalasa village has submitted his explanation on 13.03.2015 that the irregularities found was not responsible is baseless and unconvinced. The F.P.Shop dealer has admitted during the inspection conducted by the Asst. Supply Officer, DSO's Office, Srikakulam that he is selling Essential Commodities at the higher rates. The cardholders are agitated for taking disciplinary action the F.P.Shop dealer.

Thus, it is clearly established that Sri B. Ramarao, F.P.Shop Dealer, Kondavalasa village is indulging in clandestine business by diversion of stocks into black market and contravened the provision under Cl.22 (vii)(viii) of PDS Control Order 2008 read with Essential Commodities Act 1955.

Therefore, under the powers vested under clause 5(2) and 5(5) of A.P.State Public Distribution System (Control) Order 2008, the authorization of Sri B.Ramarao, F.P.Shop Dealer, Kondavalasa village of Regidi Amadalavalasa Mandal is suspended temporarily pending finalization of disciplinary case initiated against him.”

A perusal of the order does not disclose the reasons for coming to the conclusion

that the explanation was not convincing or without a basis. In fact, the explanation was not at all considered in a proper perspective. The order does not disclose the prima facie satisfaction of the 3rd respondent, with regard to the allegation that the petitioner was indulging in clandestine business by diversion of stocks into black market. This Court holds that it is not the personal opinion of the concerned authority that is material to his conclusions but reasons which would form basis for the order of suspension. However, a perusal of the charges disclose that they can be verified on the basis of the records available without suspending the authorization of the petitioner. In the facts and circumstances of the case, the suspension of authorization by the 3rd respondent is set aside. However, the 3rd respondent can conduct the enquiry in respect of the charges leveled against the petitioner by giving a due opportunity to the petitioner and complete the same within a period of three months from the date of receipt of a copy of the order. Similarly, the 2nd respondent also can complete the enquiry within a period of three months after following the principles of natural justice in respect of the 6-A proceedings alleged to have been pending against the petitioner.

3. 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.

(A.RAMALINGESWARA RAO, J)

8th June, 2015

Note: Furnish C.C. in two days.

(b/o)

cbs

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
-
-
-
-
-
-

— — — — —

WRIT PETITION No. 12639 of 2015

8th June, 2015

cbs