

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.21902 of 2011

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10.06.2015

Between:

Nandi Venkateshwarlu

...Petitioner

And

The State of Andhra Pradesh,

Represented by its Secretary, Civil Supplies Department, Hyderabad
and others

...Respondents

Counsel for the petitioner: Mr.P.S.P.Suresh Kumar

Counsel for the respondents: Government Pleader
for Civil Supplies (TG)

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The Court made the following:

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ORDER:

This writ petition is filed for a *Certiorari* to quash proceedings No.E2/3710/2010, dated 01.02.2011 of respondent No.4 cancelling the petitioner's fair price shop authorization and proceedings in Case No.CS1/364/2011, dated 28.06.2011 of respondent No.3 confirming the said cancellation order.

The ground on which the petitioner's fair price shop authorization was cancelled is rather interesting viz., instead of distributing the essential commodities between 01.12.2010 and 18.12.2010, the petitioner has distributed ahead of the schedule i.e., between 26.11.2010 and 29.11.2010. That is all the charge and also the ground for cancellation of the petitioner's authorization. There is no whisper in the charge memo that by distributing the essential commodities ahead of the prescribed schedule, the petitioner has made any wrongful gain or denied any cardholder of his quota.

In the counter-affidavit, certain new allegations are made, which are not contained either in the charge memo or the orders passed by respondent Nos.3 and 4. Such allegations made for the first time in the writ petition cannot, therefore, be countenanced. In the absence of the allegations of the petitioner indulging in any malpractice, the order of respondent No.4 subjecting the petitioner to extreme penalty of cancellation of authorization cannot be sustained in law. Equally, the order of respondent No.3, mechanically confirming the order of respondent No.4 also cannot be sustained.

For the aforementioned reasons, both the orders of respondent Nos.4 and 3, dated 01.02.2011 and 28.06.2011 respectively are quashed. The respondents are directed to restore the petitioner's fair price shop authorization forthwith.

The Writ Petition is accordingly allowed.

As a sequel to allowing the writ petition, interim order, dated 03.08.2011 in W.P.M.P.No.26676 of 2011 is vacated and W.P.M.P.No.26676 of 2011 and W.V.M.P.No.3456 of 2011 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

10th June, 2015

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