

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 20622 of 2015

DATED 7th July, 2015

BETWEEN

Uppala Srinivasa Rao

....Petitioner

And

The State of Andhra Pradesh,
Rep. by its Commissioner,
Department of Civil Supplies,
Hyderabad and ors.

.....Respondents.

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 20622 of 2015

ORDER:

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

The petitioner is the Fair Price Shop Dealer for shop No. 21 of Pullameraka village, Nizampatnam Mandal, Guntur District. While so, it appears that the Tahsildar, Nizampatnam seized 83 bags of PDS rice from Mini truck bearing No. AP16TB3340, 80 bags of PDS rice from Mini lorry bearing No. AIL 4966, 57 bags of PDS rice from Auto truck bearing No. AP7TE6399 and 244 bags of PDS rice from go-down when the same were being unloaded in the premises of M.S.Prasad Rice

and Flour Mill, Pedaravuru village on 15.11.2014. Thereafter, the Tahsildar submitted a report stating that on verification of the stock relating to the Fair Price Shop of the petitioner, no variation was found and on enquiry it was noticed that the dealer/petitioner is distributing essential commodities to the card holders properly, but he used to purchase the PDS rice from the card holders at higher rates and divert the same to black market for his personal gain. The said incident of seizure of PDS rice took place on 15.11.2014 and the show cause notice was issued on 16.3.2015. The petitioner submitted his explanation on 1.4.2015. Thereafter, the fourth respondent suspended the dealership of the petitioner by order dated 27.5.2015 without mentioning any period of suspension and without indicating as to whether the said suspension is pending enquiry. Challenging the said order of the fourth respondent, the present Writ Petition is filed.

The charge levelled against the petitioner reads as follows:

“ Charge : Being an F.P. shop Dealer, the ECs allotted to your shop for distribution to the card holders pertaining to your shop but you are not distributing properly and while diverting the stocks into the black market the police of Tenali Rural P.S. have caught hold you at Pedaravuru village of Tenali mandal thus violated Clause 17 C of A.P.S.P.D.S. (Control) Order 2008.

The petitioner has submitted his explanation stating that he has not committed any irregularity and that the seized stock does not belong to his shop. He further stated that the persons who were caught hold by the police have mentioned his name to escape from the liability and that his name was not included in the FIR. Thereafter, the fourth respondent passed the impugned

order observing as follows:

“ On perusal of the explanation filed by dealer is not convincible and he is not produced any recorded evidence showing that his name was not included in the FIR.

In view of the above the F.P. Shop authorization held by Sri Uppala Srinivasa Rao, F.P. Shop Dealer, F.P. Shop No.21, Pullameraka village is hereby suspended under Clause 5(5) of APSPDS (control) Order, 2008.”

It is to be seen that the fourth respondent should have conducted an enquiry into the allegations levelled against the petitioner in the light of the explanation submitted by him. The fourth respondent appears to have gone by the incident that occurred on 15.11.2014, but however, did not find any irregularity committed by the petitioner in distribution of the essential commodities. In the circumstances, the suspension of the petitioner made at this length of time based on the incident that occurred on 15.11.2014 is not warranted. In view thereof, the order of suspension dated 27.5.2015 passed by the fourth respondent against the petitioner is set aside. However, the fourth respondent is at liberty to conduct an enquiry in respect of the charge levelled against the petitioner and pass final order thereon in accordance with law.

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.

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JUSTICE A.RAMALINGESWARA RAO

Dated 7th July, 2015.
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