

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

* * * *

WRIT PETITION No. 33242 OF 2015

-

Between:

D.Kankaiah

.. Petitioner

And

The State of Telangana, rep. by Principal Secretary, Civil Supplies Department,
Consumer Affairs Department, Secretariat, Hyderabad and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 09.10.2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgment?

2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals

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.33242 of 2015

ORDER:

The petitioner is a fair price dealer of shop No.3326, Sircilla Mandal, Karimnagar District. The authorization of the petitioner is valid upto 31.03.2017. The shop of the petitioner was inspected by the Deputy Tahsildar, Metpally on 13.06.2015 and, though he did not notice any variation in stock, he appears to have submitted a report to the 3rd respondent. Based on which, a show cause notice dated 25.06.2015 was issued to the petitioner. The petitioner submitted his explanation on 02.07.2015. When essential commodities were not distributed to the petitioner, he filed W.P.No.19897 of 2015. During pendency of the matter, the 3rd respondent, by proceedings dated 02.07.2015, cancelled the authorization of the petitioner. The petitioner withdrew W.P.No.19897 of 2015 and filed W.P.No.21689 of 2015. This Court, by order dated 14.07.2015, disposed of the Writ Petition directing the third respondent to conduct an enquiry. Now the 3rd respondent passed the impugned order dated 18.09.2015 cancelling the authorization of the petitioner. Hence the Writ Petition.

A perusal of the impugned order shows that, after passing of the order by this Court on 14.07.2015, the matter was entrusted to the Tahsildar, Sicilla to

conduct an enquiry and submit a report. Based on the report of the Tahsildar, the order of cancellation was passed. The relevant portion of the impugned order reads as follows:

“As per orders of Hon’ble High Court, this office has permitted to the dealer Sri Doosa Kanakaiah FPS.No.3326 to remit the D.Ds. Further, a report called for in this regard from Tahsildar, Sircilla to conduct enquiry and submit the report to take further action vide reference 6th cited.

Further, the Tahsildar, Sircilla has reported that, the FPS dealer Doosa Kanakaiah is looking after other business i.e. travel agency etc., and his brother Doosa Poshetti and Doosa Poorna Chandra (son of Poshetti) are running the FPS since long which is illegal. The families of Doosa Poshetti and Kanakaiah are living separately and not connected to each other except blood relation vide reference 7th cited.

In view of above it is clear that, the Fair Prince Shop is operated by a benami person. Therefore, the authorization of Sri Doosa Kanakaiah F.P.shop No.3326 dealer of Sircilla Town is hereby cancelled as per clause 5(5) of APSPDS control order 2008 with immediate effect.”

When this Court set aside the earlier order of cancellation and remanded the matter to the third respondent, it is incumbent upon the third respondent to conduct an enquiry by himself but he cannot delegate that power to the Tahsildar whose report formed the basis for initiation of enquiry against the petitioner. The third respondent cannot delegate his power of enquiry to his subordinate. Such an action of the third respondent cannot be appreciated. Since the order was not passed by conducting an enquiry by the third respondent, this Court is constrained to set aside the order of the third respondent without expressing any merits.

The Writ Petition is allowed setting aside the order of the third respondent. In view of setting aside the order of the third respondent, *status quo* shall continue until the third respondent passes an order after due enquiry. Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of. No order as to costs.

A. RAMALINGESWARA RAO,J

Date:09.10.2015

Note:CC by 14.10.2015

bo

usd

