

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.38810 OF 2015

ORDER :

Petitioner in this Writ Petition assails proceedings dt.05.09.2015 of the 2nd respondent canceling the petitioner's Fair Price Shop Dealership authorization.

2. Counsel for the petitioner contends that no enquiry has been conducted and no findings on the charges framed against the petitioner have been given in the impugned order.

3. The Government Pleader for Civil Supplies appearing for respondents does not dispute this fact.

4. In ***B.Manjula v. District Collector, Civil supplies, Kurnool and others*** considering the nature of enquiry under A.P. State Public Distribution System (Control) Order 2008, a learned single Judge of this Court held that:

“10. An ‘enquiry’ pre-supposes an opportunity of personal hearing to the dealer to explain his/her case based on the records such as sales and stock registers. If need, be such ‘enquiry’ must also include recording the sworn statement of the dealer and witnesses, if any, from his/her side. In cases where either card holders or other persons sent any complaint, they must also be examined in the presence of the dealer or his/her lawyer and the dealer shall be given an opportunity of cross-examining such persons. The licensing/disciplinary authority shall also supply to the dealer all the reports on which he is likely to place reliance to the detriment of the dealer. Unless the dealer has no explanation at all to offer, the licensing/disciplinary authority is bound to hold a detailed enquiry.

11. The experience of this Court reveals that the appointing authorities of fair price shop dealers are dispensing with the requirement of making personal enquiry by summoning the dealers. They are merely relying upon the reports sent by their subordinates i.e., Deputy Tahsildars and Tahsildars, behind the back of the dealers and resting their decisions solely upon those reports. This procedure is anathema to the concept of ‘enquiry’ which otherwise means affording the dealer an opportunity of a fair hearing.”

It was also held that reasons have to be recorded in the order of cancellation.

5. But, the impugned order does not indicate that the 2nd respondent has conducted any enquiry into the allegations against the petitioner and it also does not give any reasons or any findings on the charges framed against the petitioner in the show cause notice dt.23.07.2015.

6. Therefore, the Writ Petition is allowed; the impugned order dt. 05.09.2015 is set aside; the 2nd respondent shall personally pay costs of Rs.2,000/- to the petitioner. However, this will not preclude the 2nd respondent from conducting a proper enquiry into the allegations made against the petitioner in the show cause notice dt.23.07.2015 and then passing a reasoned order in accordance with law after considering the explanation submitted by the petitioner.

7. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

30th November, 2015.

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