

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

WRIT PETITION No.22318 of 2015

Between:

M.Shaik Ahmed, S/o.Vali Saheb.
... Petitioner
and

The State of Andhra Pradesh, rep. by its
Principal Secretary, Department
Civil Supplies, Secretariat, Hyderabad
and others
... Respondents

DATE OF JUDGMENT PRONOUNCED: 20-07-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. Whether Their Lordship wish to see the
fair copy of the Judgments? | Yes/No |

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.22318 of 2015

ORDER:

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

The petitioner was appointed as fair price shop dealer of shop

No.52 of Peddathumbalam village, Adoni Mandal, Kurnool District. The fair price shop of the petitioner was inspected by the Tahasildar, Adoni and noticed some irregularities. Thereafter, the Tahasildar, Adoni submitted a report on 23.04.2015, based on which, the third respondent issued show cause notice dated 30.04.2015 to the petitioner. The petitioner submitted his explanation denying the allegations levelled against him. Being not satisfied with his explanation, the third respondent by order dated 20.05.2015, cancelled the authorization of the petitioner. Challenging the same, the present writ petition is filed.

This Court carefully perused the impugned order. The operative portion of the said order reads as follows:

"The report of the Tahasildar, Adoni and the explanation of the dealer have been perused. On verification of the explanation of the dealer it clearly shows that he is not maintaining the F.P.Shop regularly and not distributing ECs to the card holders properly. More over the explanations submitted by the dealer is not convincing. As the dealer has contravened/violated the condition of A.P.P.D.S.Control Order, 2008. The FP Shop dealership/ authorization held by the dealer is hereby cancelled with immediate effect."

When the petitioner has denied the charges levelled against him, the burden is on the authorities to prove the charges and the petitioner cannot be asked to prove negative. A perusal of the impugned order indicates that no enquiry was conducted and only explanation of the petitioner was compared with the report of the Tahasildar and finally order of cancellation of authorization was passed. In the circumstances, this Court is inclined to set aside the order dated 20.05.2015 passed by the third respondent.

Accordingly, the order dated 20.05.2015 passed by the third respondent is set aside. However, it is open to the third respondent to conduct an enquiry by following the due process of law and pass final

order thereon. Till the enquiry is completed and final order is passed, the petitioner shall not be disturbed from his fair price shop dealership.

The writ petition is allowed to the extent indicated above. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 20.07.2015

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