

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

WRIT PETITION NO.23576 OF 2008

DATED:29-10-2015

Between:

M. Satyanarayana ... Petitioner

And

The District Collector

Medak District

At Sanga Reddy

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. N. Sreedhar Reddy

COUNSEL FOR THE RESPONDENTS: G.P. for Civil Supplies (TS)

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside orders dt.30.9.2008 in Case No.CSA/14/Rev/2007, of respondent No.1, dt.7.9.2006 in Case No.CSA/15/A/2006, of respondent No.2, and dt.29.5.2006 in Proceedings No.J/F/1633/2005, of respondent No.3.

2. Heard Mr. N. Sreedhar Reddy, learned counsel for the petitioner, and the learned Government Pleader for Civil Supplies (TS).

3. The petitioner is a fair price shop dealer of Shop No.2 of Gadipeddapur Village, Alladurg Mandal of Medak District. Based on an inspection of the petitioner's shop, respondent No.3 has issued a show cause notice dt.24.12.2005 by framing five charges. In charge No.1 it was alleged that the petitioner has failed to distribute rice to 21 drought pensioners during April, May and June 2005. In charge No.2 it was alleged that the petitioner failed to maintain stock and distribution registers. In charge No.3, it was alleged that as per the mid-day meal programme every fair price shop dealer shall receive the allotted quantity under the said programme and handover the same to the Headmaster concerned duly obtaining his acknowledgement, but the petitioner has not been supplying rice to the schools for preparation of mid-day meals. Under charge No.4 the petitioner is alleged to have shifted 20 quintals of rice from the fair price shop to some other premises belonging to him without prior permission of the Mandal Revenue Officer. Under charge No.5 it was alleged that the petitioner has been selling rice and kerosene oil at higher rates than that was prescribed by the government, and distributing the stock with under-weighment/measurement.

4. In reply to the said show cause notice, the petitioner has submitted the following explanation, the gist of which reads as under.

1. That he has distributed the allotted essential commodities as per the eligibility without obtaining 8 coupons since the coupons were issued later in June 2005. Due to some political grudge some of the villagers filed a complaint before the Mandal Revenue Officer against him stating that he has not distributed the essential commodities.
2. That he is maintaining the stock register and distribution register properly and all the registers were inspected by the authorities during their visit to the village periodically.
3. That as per the instructions of the Mandal Revenue Officer during the monthly fair price shop dealers' meet, the allotted rice under mid-day meal programme has been regularly handed over to the concerned implementing agencies under acknowledgement obtained from the Headmaster concerned regularly. That there is no discrepancy in supply of rice to the schools and there are no complaints filed by implementing agencies or parents of the students against him from the date of implementation of this scheme.
4. That due to heavy stocks, from the house for which the authorization was obtained from the appointing authorities 40 bags of rice was shifted to

another portion of the same house after obtaining the orders of the Mandal Revenue Officer, since some portion of the house was damaged. Thus the allegations levelled against him are not correct.

5. That he was appointed as fair price shop dealer of Shop No.2 of Gaddipeddapur Village 18 years ago and since then he has been running the shop without any complaints either from the consumers or from his superior officers. That he has distributed the allotted commodities as per the rates prescribed by the Government and with correct weightment/measurement and that therefore the allegations levelled against him are not correct.

5. By order dt.29.5.2006, respondent No.3 has cancelled the petitioner's authorization. This order was confirmed by respondent Nos.2 and 1 in appeal and revision respectively.

6. A perusal of the order of respondent No.3 shows that after extracting the charges and the explanation offered by the petitioner, he has made the following cryptic observation.

*"The explanation submitted by the FP Shop Dealer has been examined with reference to the show cause notice issued. But the same is not at all convincing in any manner nor supported by any documents. During my enquiry in the village, the cardholders and people have made so many allegations against him on improper distribution of essential commodities. Further it is also noticed that his wife is a ward member of the Gram Panchayat and influencing the people not to make any complaints against him."*

7. In the order passed by respondent No.2 he has referred to the show cause notice dt.26.7.2005 issued by respondent No.3, which was not made basis for cancelling the petitioner's authorization. The only additional observation made by respondent No.2 in his order is that the petitioner has produced the distribution register of drought rice and there are no signatures of the higher officers in the register, that the thumb impressions of the cardholders put in the register appear similar in nature and that it is evident that he has distributed drought rice to the coupon holders leaving a balance of 6.00 quintals and the same is available with the petitioner. Respondent No.2 has also pointed out some contradiction between the distribution register and replies of the petitioner given on 22.10.2005 and 16.1.2006. In his order, respondent No.1 has merely endorsed the orders of respondent Nos.2 and 3 by a terse observation that those orders are upheld.

8. An order terminating authorization of a fair price shop involves serious adverse consequences and such extreme penalty cannot be imposed on vague and jejune grounds. As noted hereinbefore, for each of the five charges framed against him, the petitioner has submitted detailed explanation. Having extracted the explanation, respondent No.3 has merely brushed aside the same by an abstract observation that the same is not at all convincing in any manner nor supported by any documents. Indeed, being the primary authority which has framed the charges, the initial burden lies on respondent No.3 to bring home the guilt, if any, based on the evidence available on record. No evidence has been discussed in the order of respondent No.3 even to *prima facie* hold that the petitioner is guilty of any of the charges. On the contrary, the petitioner while denying all the allegations, asserted with reference to charge No.1 that he has distributed the allotted essential commodities as per the eligibility in the absence of eight coupons which were issued later in June 2005 and that political grudge was only the reason for the complaint against him. Under charge No.2 he has denied the vague allegation that he has not maintained stock register and distribution register properly and submitted that all the registers were inspected by the authorities during their visit to the village periodically. Under charge No.3 while denying that he has failed to handover the rice under mid-day meal programme to the Headmaster, he has asserted that he has handed over the rice to the Headmaster regularly, that there is no irregularity in supply of the rice to the schools and that there were no complaints in this regard. As regards charge No.4 he has explained that since a part of the house in which the essential commodities were stored was damaged, 40 bags of rice was shifted to another portion of the house after obtaining permission from the Mandal Revenue Officer. As regards charge No.5 that he was selling essential commodities at higher rates than that were prescribed by the Government, he has emphatically denied the same and stated that he was running the shop for the last eighteen years without any complaint. In view of this detailed explanation, respondent No.3 was duty bound to refer to the evidence available, if any, to hold the explanation offered by the petitioner is unacceptable. Far from discussing any such evidence, respondent No.3 has made an omnibus observation that several allegations were made against the petitioner about improper distribution of essential commodities and that his wife, who is a Ward Member of the Gram Panchayat, influenced the cardholders not to make any complaint against the petitioner. Such observations which are not based on evidence, cannot be made basis for imposing the extreme penalty of cancellation of

authorization. Respondent Nos.2 and 1 have also failed to examine the case from proper perspective and mechanically confirmed the order of respondent No.3.

9. For all the above mentioned reasons, the orders of the respondents cannot be sustained in law and the same are accordingly set aside. The writ petition is accordingly allowed.

As a sequel to disposal of the writ petition, W.P.M.P. No.30732 of 2008 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

29-10-2015

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