

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

W.P.No.2093 of 2015

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents.

2. In this Writ Petition, the petitioner has challenged the order dt.27-01-2015 passed by 3rd respondent canceling the petitioner's fair-price-shop dealership authorization.

3. A reading of the impugned order shows that after issuing show cause notice to the petitioner, 3rd respondent was given an explanation by the petitioner but thereafter, 3rd respondent did not conduct any enquiry as required in Clause (5) of the Andhra Pradesh State Public Distribution System (Control) Order, 2008.

4. This is not disputed by the learned Government Pleader for Civil Supplies.

5. In **B.Manjula Vs. District Collector, Civil Supplies, Kurnool and others**^[1], this Court held:

"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 licencing/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.

12. As regards the second mandatory requirement under sub-clause (5) of Clause 5, namely; reasons to be recorded in writing, reasons constitute the heart and soul of a decision.”

6. Having regard to the above settled legal position, the impugned order of cancellation of the petitioner's fair-price-shop dealership authorization cannot be sustained since it is in violation of principles of natural justice.

7. Therefore the Writ Petition is allowed and the order dt.27-01-2015 of 3rd respondent is set aside. However, liberty is given to 3rd respondent to conduct an enquiry in accordance with Clause (5) of the Andhra Pradesh State Public Distribution System (Control) Order, 2008, after following principles of natural justice. No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 17-12-2015

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[\[1\]](#) 2015 (3) ALD 617