

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO
WRIT PETITION Nos.1452,1482,1490,1717,1734 & 33528 of 2015

COMMON ORDER:

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

2. These writ petitions are filed by the dealers of fertilizers and urea who are running the business under the licences issued by the 3rd respondent. The business premises of the dealers were inspected by the Vigilance and Enforcement Department, Kurnool, and some irregularities were noticed. The matter was referred to the District Collector, Kurnool, to initiate 6-A proceedings and the petitioners filed applications for release of the stock seized. Pending those proceedings, the 4th respondent issued notices for violation of the Fertilizers Control Order, 1985 and the petitioners submitted their explanations denying the allegations. After considering the explanations, when the licences of the petitioners were cancelled by the 4th respondent by separate orders dated 23.01.2015 and 28.01.2015, these writ petitions are filed.

3. The impugned order of cancellation of licence dated 23.01.2015 in W.P.No.1452 of 2015 reads as follows:

"The Vigilance & Enforcement Team of Kurnool District along with Mandal Agricultural Officer, Mahanandi conducted surprise raids on 05.09.2014 in the premises of M/s. Sri Lakshmi Venkata Padmavathi Traders, Nunepalli and Urea (110 bags) worth of Rs.31,240/- and booked the case u/s 6-A of E.C. Act, 1955 in the Court of Joint Collector, Kurnool, due to selling urea for more than MRP rates, as per reference 2nd cited. In response to the show cause notice issued in reference 5th cited, the explanation of dealer received through reference 7th cited, is not satisfied.

In view of the violation of clause 3(3) FCO, 1985 for selling urea at more than MRP rates the license has been suspended from 07.10.2014 in reference 8th cited. The suspended licence was revoked on 24.10.2014, through reference 9th cited.

In pursuance to the orders issued in reference 11th cited, Sri Lakshmi Venkata Padmavathi Traders, Nunepalli were directed to

submit their explanation, as to why the retail license of Sri Lakshmi Venkata Padmavathi Traders, Nunepalli should not be cancelled for violation of FCO, 1985 for selling the urea for more than the MRP rates through reference 12th cited.

Vide reference 13th cited above an explanation is being submitted by the erring dealer through dt.08.01.2014, which is not satisfied by the undersigned.

In the reference 10th cited, it is also strictly instructed by the Commissioner and Director of Agriculture, Hyderabad to issue proceedings for cancellation of fertilizer license for violation of clause 3(3) of FCO, 1985 which is reiterated by the Joint Director of Agriculture, Kurnool, vide reference 11th cited.

In view of the circumstances submitted above, the fertilizer license of M/s. Sri Lakshmi Venkata Padmavathi Traders, Nunepalli bearing No.KNL/34/ADA/FR/2013/8216 for the retail sale of fertilizer is hereby cancelled for violation of clause 3(3) of FCO, 1985 with allowing 30 days time period to do the business in order to dispose of balance stocks as per clause 31(1) of FCO, 1985.”

Para 1 of the above order shows that a show cause notice was issued and the dealer submitted its explanation, but it was simply recorded that the 4th respondent was not satisfied with the explanation, without indicating as to how he was not satisfied with the explanation. The impugned order also shows that the competent authority, the 4th respondent, was influenced by the Commissioner and Director of Agriculture, Hyderabad, to take stringent action for cancellation of fertilizer licence for violation of Clause 3(3) of the Fertilizer Control Order, 1995. The 4th respondent being the competent authority should not act on the dictates of his higher authority. The 4th respondent shall consider the explanations submitted by the dealers dispassionately to the allegations mentioned in the show cause notice and pass orders recording reasons. In the absence of reasons in the impugned orders, the impugned orders dated 23.01.2015 and 28.01.2015 are set aside and the matters are remanded to the 4th respondent for passing appropriate orders, in accordance with law.

4. The Writ Petitions are accordingly allowed. Consequently, miscellaneous petitions, if any, pending in the writ petitions shall stand

closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

28th October, 2015
cbs

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