

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.38318 OF 2015

ORDER :

Petitioner in this Writ Petition assails the order dt.20.07.2015 of the 2nd respondent canceling the petitioner's Fair Price Shop Dealership authorization.

2. Counsel for the petitioner contends that no enquiry as contemplated in sub-clause (5) of Clause 5 of the A.P. State Public Distribution System (Control) Order 2008 was conducted by the 2nd respondent; petitioner was not given opportunity to cross-examine the persons who made complaints against him in the enquiry held by the 2nd respondent on 04.07.2015; and that the charges were leveled against the petitioner are even without inspecting the fair price shop of the petitioner, on account of political pressure.

3. 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.”

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

5. A reading of the impugned order indicates that charge Nos. 1 and 3 are found proved against the petitioner on the basis of the statements of 121 card holders but none of them were examined in the enquiry conducted by the 2nd respondent on 04.07.2015. Therefore, the petitioner had no opportunity to cross-examine the persons who gave complaints against him. Even with regard to charge No.2, the finding against the petitioner is based on the verification done by Civil Supplies Deputy Tahsildar, Guntakal of the sales register but the 2nd respondent had not verified the same even though it was produced before him during enquiry. Therefore, the enquiry done by the 2nd respondent appears to be a mockery of law and principles of natural justice.

6. In this view of the matter, the order dt.20.07.2015 of the 2nd respondent canceling the Fair Price Shop Dealership authorization of the petitioner is set aside and the matter is remitted back to the 2nd respondent to conduct a proper enquiry in accordance with the principles of natural justice and the legal position set out above and complete the same within a period of two (02) months from the date of receipt of a copy of this order. Pending enquiry, the 2nd respondent shall release stocks to the petitioner for distribution among the card holders attached to his Fair Price Shop.

7. Accordingly, this Writ Petition is allowed and remanded as above. There shall be no order as to costs.

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

M.S. RAMACHANDRA RAO, J

25th November, 2015.

Note: Issue C.C. in one week.

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