

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 27223 of 2015

ORDER:

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

The petitioner was appointed as Fair Price Shop Dealer for Fair Price Shop No. 21 of Kothapeta Village, Gooty Mandal, Ananthapur District on temporary basis by the second respondent in the year 1992. It appears that based on the irregularities noticed by the Tahsildar pursuant to the inspection conducted on 2.2.2015, the second respondent issued a show cause notice on 13.2.2015 framing as many as five charges against the petitioner. The petitioner submitted his explanation on 28.2.2015. The second respondent being not satisfied with the same, passed the impugned order of cancellation of authorization of the petitioner on 12.8.2015. Challenging the same, the present Writ Petition is filed.

The learned Counsel for the petitioner submits that no enquiry was conducted by the second respondent in respect of the charges levelled against the petitioner. However, pursuant to the order of this Court dated 16.4.2015 passed in Writ Petition No. 10755 of 2015, this Court directed the second respondent to conduct an enquiry and pass final order within a period of eight weeks from the date of receipt of the said order. After receipt of the said order on 13.07.2015, the second respondent issued notice to the petitioner for conduct of enquiry on 1.8.2015 and 7.8.2015 and learned Counsel for the petitioner

appeared before the second respondent and argued the matter. The above facts came to light in view of the observations made in the impugned order, which reads as follows:

“ As per the orders of Honourable High Court of A.P. Hyderabad, notices issued for hearing the case on 01.08.2015 vide in the reference 7th read above. Court is not conducted on 01.08.2015 due to urgent work. Further case is posted for hearing on 07.08.2015 vide in the reference 8th read above. Case called on 7.8.2015. Sri B. Ramachandra, Advocate, Ananthapuram present and argued. Heard the arguments of the Advocate and perused the case record. The following is the charge, explanation and Finding.”

Though it is stated in the impugned order that arguments of Advocate were heard and case record was perused, it is not clear from the order as to whether a copy of the report of the Tahsildar, Gooty, whereunder statements of the cardholders were recorded, was furnished to the petitioner. It is relevant in view of Charge No.3, and explanation submitted by the petitioner in regard thereto and finding recorded by the second respondent thereon that the third respondent recorded the statements of 15 cardholders in his report dated 6.2.2015. The relevant portion of order reads as follows:

“Charge No.3: That the F.P. Shop dealer not distributed K.Oil 35 card holders and 15 card holders have given written statement with their signatures and also thumb impression. Thereby he has violated Cl.17 (b & c) of APSPDS Control Order, 2008.

Explanation: All the allegations made in charge are denied as not true. It is submitted that all the cardholders received K.Oil and any allegations made in the charge are quite

contra to the fact and none were complained against the dealer and inspecting authorities have table made enquiry and framed the above charge against the dealer.

Finding: The CSDT has taken statement from 15 cardholders and also taken statement from the respectable persons of the village. They have stated that the FP shop dealer not distributed the K.Oil to the cardholders properly in the village. The explanation of the Advocate is not correct. Hence the charge is proved.:

Apart from the non furnishing of the report of the third respondent, it is also clear that the other charges framed against the petitioner are vague. In this background of the circumstances, the impugned order dated 12.08.2015 passed by the second respondent is set aside and the matter is remanded to the second respondent for conducting enquiry afresh in respect of the charges levelled against the petitioner and pass appropriate order thereon within a period of thirty days from the date of receipt of a copy of this order.

The Writ Petition is allowed to the extent indicated above. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 26th August, 2015.
Msnr_x