

IN THE HIGH COURT OF JUDICATURE; AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION No.23976 of 2015

BETWEEN:

Mulamreddy Obul Reddy

.. **Petitioner**

AND

The State of Andhra Pradesh,
Rep.by its Principal Secretary, Civil Supplies
Department, Secretariat, Hyderabad,
and 4 others.

.. **Respondents**

DATE OF JUDGMENT PRONOUNCED: 10.08.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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| 1. Whether reports of Local newspapers
may be allowed to see the judgments? | YES/NO |
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| 2. Whether the copies of judgments may be
marked to Law Reporters/Journals. | YES/NO |
| | |
| 3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment ? | YES/NO |

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.23976 of 2015

ORDER:

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

The petitioner was appointed as fair price shop dealer of Shop
No.29 of Veluguvaripalem Village in Talluru Mandal of Prakasam

District on permanent basis. While so, on 14.02.2012, the Sub-Inspector of Police, Talluru detained a lorry carrying 53.50 quintals of PDS rice and handed over the same to the Tahsildar, Talluru Mandal. Later on 15.02.2012 the Enforcement Deputy Tahsildar, Darsi inspected the shop and found some variation in the quantity of PDS rice and kerosene oil. The petitioner submitted his explanation. At the time of inspection, the petitioner stated that the said stock was in fact sold to the cardholders, who stated to him that they would take the same when they return from their fields in the evening. However, the stock was seized and panchnama was recorded. The fourth respondent-Revenue Divisional Officer, Kandukur passed an order on 22.02.2012 suspending the authorization of the petitioner.

Against the said order, the petitioner preferred an appeal before the third respondent-Collector (CS), Prakasam District at Ongole and when the third respondent did not pass any orders, the petitioner filed Writ Petition No.9639 of 2012 and the same was disposed of on 04.04.2012 directing the third respondent to pass appropriate orders within three months from the date of receipt of the copy of the order. But, the third respondent did not pass any order within the said prescribed period. In those circumstances, the petitioner again approached this Court in W.P.No.29501 of 2012 and this Court by order dated 21.09.2012 directed the Revenue Divisional Officer, Kandukur to complete the enquiry and pass final orders after giving due opportunity to the petitioner. However, the third respondent passed an order on 06.10.2012 stating that in view of the orders of this Court in W.P.No.29501 of 2012 dated 21.09.2012, the appeal before the 3rd respondent has become infructuous. In spite of the orders of this Court dated 21.09.2012, the fourth respondent did not pass any orders and the petitioner requested the fifth respondent-Tahsildar, Talluru Mandal for issuance of commodities. He also filed a petition before the third respondent on 20.06.2013 stating the above facts and the third respondent passed an order on 26.06.2013 directing the

fourth respondent to pass orders immediately. Thereupon, the fourth respondent passed an order on 13.07.2013 cancelling the authorization of the petitioner.

Challenging the said order, the petitioner preferred an appeal before the third respondent and the third respondent by his order dated 27.12.2014 allowed the appeal and directed the fourth respondent to conduct an enquiry and pass orders. Against the said order, the petitioner filed a revision before the second respondent-Collector & District Magistrate, Prakasam District at Ongole and when the second respondent did not pass any orders, the petitioner filed W.P.No.1538 of 2015 and this Court by order dated 30.01.2015 directed the fourth respondent to pass final orders within a period of two weeks from the date of receipt of a copy of the order. The fourth respondent issued a show cause notice on 20.02.2015 and the petitioner submitted his explanation on 13.03.2015. The petitioner sent a representation to the fourth respondent on 04.06.2015 by registered post seeking allotment of commodities in view of the non-passing of orders and also bringing to his notice that the disobedience of the orders of this Court in W.P.No.1538 of 2012 dated 30.01.2015 would amount to contempt of court orders. In spite of the same, the fourth respondent did not pass orders. The petitioner filed Contempt Case No.1088 of 2015 on 22.06.2015 and after receiving the information from the learned Government Pleader, the fourth respondent passed an order on 18.06.2015 cancelling the authorization of the petitioner reproducing the earlier order dated 13.07.2013. Challenging the same, the present writ petition is filed.

The main allegation against the petitioner relates to the difference in PDS rice and kerosene oil of quantity of 63.50 quintals and 100 liters respectively. In respect of the said allegations, no enquiry was conducted except receiving explanation from the petitioner. The petitioner approached this Court several times and ultimately orders were passed by the third respondent on 27.12.2014

holding as follows:

“the main contention of the appellant is that though the Hon’ble High Court directed the Revenue Divisional Officer, Kandukur in W.P.No.29501 of 2012 dated 21.09.2012 to complete the enquiry and pass final orders after giving the appellant an opportunity of being heard within a period of 6 weeks, the Revenue Divisional Officer, Kandukur did not take any action for several months and suddenly passed final orders in the Disciplinary proceedings on 13.07.2013 after a lapse of 8 months after giving direction of the Hon’ble High Court canceling the dealership authorization of the appellant besides by imposing a penalty of Rs.3,91,884/- without giving only notice and also without giving only opportunity to the appellant to state his case which is against the principles of natural justice. In this regard on perusal of the connected record it is observed that the Revenue Divisional Officer, Kandukur issued show cause notice to the appellant on 05.11.2012 by framing certain charges against him and the appellant submitted his written explanation on 24.11.2012 for the charges framed against him but the Revenue Divisional Officer, Kandukur passed final orders in the disciplinary proceedings on 13.07.2013 even though there were directions from the Hon’ble High Court to pass order within 6 weeks. It is also noticed that the Revenue Divisional Officer, Kandukur without giving affordable opportunity of personal hearing to the appellant passed final orders in the Disciplinary proceedings which is against the principles of natural justice. In view of above circumstances explained the matter is remanded to the Sub-Collector, Kandukur with a direction to conduct fresh detail enquiry by giving affordable opportunity of personal hearing to the appellant to report his case and pass appropriate orders within one month from the date of receipt of this order.”

Though the petitioner filed a revision against the above said order but by virtue of the order passed by this Court in W.P.No.1538 of 2015, the fourth respondent was directed to pass a final order within a period of two weeks pursuant to the order passed by the third respondent dated 27.12.2014. The fourth respondent did not pass orders and ultimately the petitioner had to file a contempt case. On 22.06.2014 the petitioner filed a contempt case and he received the impugned order dated 18.06.2015 cancelling the authorization.

A comparison of the order of cancellation dated 18.06.2015 passed by the 4th respondent with the order of cancellation dated 13.07.2013 passed by another officer who was holding the post at that time, disclosed that both are identical. When got a doubt, this Court

called for the records from the fourth respondent and it is noticed that the order passed on 13.07.2013 was by a different officer and the order dated 18.06.2015, which is impugned in the present writ petition, is by a different officer. Ultimately, the order passed by the third respondent dated 27.12.2014 directing to conduct of detailed enquiry was not implemented.

However, the impugned order reads that in spite of opportunity given to the petitioner on 27.02.2015 the petitioner did not avail the same, but merely submitted his explanation. When the record is verified, it is noticed that the advocate filed Vakalat on 11.03.2015 and no enquiry was conducted by the fourth respondent. It appears that the show cause notice dated 20.02.2015 itself directs the appearance of the petitioner on 27.02.2015 but the said communication was sent to the petitioner on 05.03.2015, as could be seen from the explanation of the petitioner and acknowledgement made on the notice dated 20.02.2015.

In those circumstances only, the petitioner could not appear on 27.02.2015 and an advocate entered appearance on 11.03.2015. When it is the specific case of the petitioner that the show cause notice was issued on 05.03.2015 and an advocate appeared before him, the fourth respondent should have issued a separate notice for enquiry, but he did not do the same and hurriedly passed an order with a date of 18.06.2015 and a contempt case was filed on 22.06.2015.

The record does not contain the representation of the petitioner dated 04.06.2015 alleged to have been sent by the petitioner under registered post.

The above facts clearly show that for conducting enquiry in respect of the allegations against the petitioner, the petitioner had to knock the doors of this Court and before the third respondent several times. Even after several orders, no enquiry has been conducted by the fourth respondent till today. However, the impugned order was passed on 18.06.2015 by copying the order dated 13.07.2013. This is

a classic case of negligence of the authorities. Therefore, the impugned order dated 18.06.2015 is liable to be set aside.

In the circumstances, the writ petition is allowed setting aside the order dated 18.06.2015 passed by the fourth respondent and remanding the matter to the third respondent for conducting enquiry by himself, as fourth respondent, in spite of several orders, failed to discharge his duties.

The third respondent shall complete the enquiry within a period of 30 days from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous Petitions, if any pending in this writ petition, shall stand closed.

Registry is directed to communicate a copy of this order to the District Collector, Prakasam for enquiry in the matter with regard to the dereliction of duties of the fourth respondent and take appropriate proceedings in disobeying the orders of the third respondent dated 27.12.2014 and orders of this Court dated 30.01.2015 in W.P.No.1538 of 2015 with regard to conduct of enquiry. A copy of this order may be sent to the Commissioner of Civil Supplies, Government of Andhra Pradesh, Hyderabad for appropriate action as he deems necessary.

A. RAMALINGESWARA RAO, J

Date: 10.08.2015
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