

HON'BLE SRI JUSTICE R. KANTHA RAO

W.P.No.3263 of 2015

ORDER:

Heard learned counsel appearing for the petitioner and learned Government Pleader for Civil Supplies appearing for respondents 1 to 4.

This Writ Petition is filed seeking to declare the action of the 3rd respondent in suspending the authorization of the petitioner, as arbitrary and illegal.

Petitioner is the dealer of fair price shop No.1 of Nallagunta Palli, B.Yerragudi Village, Lakkireddy Palli Mandal, Kadapa District. In January, 2015, the Enforcement Deputy Tahasildar along with the Mandal Revenue Inspector, Lakkireddy Palli, inspected the fair price shop of the petitioner, found certain variations in the stock and submitted a report to the 3rd respondent. Based on the said report, the 3rd respondent suspended the authorization of the petitioner.

Learned counsel appearing for the petitioner submits that the alleged variations are very minor and the 3rd respondent ought not to have resorted to suspend the authorization of the petitioner.

In W.A.M.P.No.343 of 2015 in W.A.No.118 of 2015, Division Bench of Court held as under:

“On the question of interim relief, stay of

operation of the impugned judgment and order has to be granted, as we are prima facie of the view, overruling the contention of the learned counsel for the writ petitioner, the Hon'ble trial judge has no jurisdiction, at the first instance, to substitute his own opinion or decision, in the place of opinion of the authority under the Essential Commodities Act, 1955.

Short fact of the case is that the writ petitioner is a Fair Price Shop Dealer and he was issued a show cause notice on the complaint made by the appellant with regard to misuse of the kerosene oil and we have seen the charges made against the writ petitioner. The writ petitioner has given explanation to the same. As an interim measure, an order of suspension has been issued. The Statute provides power to issue suspension order, pending final decision in the enquiry. According to us, the suspension order was justified, because at the enquiry stage the authority concerned is to examine the prima facie case, meaning thereby, whether there has been any serious allegations against him nor not, and at that stage, the explanation is not required to be looked into. The explanation is required to be examined at the time of final hearing of the enquiry and that is still pending.

Accordingly, we grant stay of operation of the impugned judgment and order of the learned trial Judge. However, we make it clear that the pendency of the appeal will not debar the authority concerned to proceed to dispose of the pending enquiry finally. The observations and findings made in this order, or of the Hon'ble trial Judge in the impugned order, will not be binding or influencing factor. Obviously a speaking order shall be passed. All points are kept open to be agitated by the writ petitioner-respondent."

In view of the order of the Division Bench, this writ petition is disposed of directing the 3rd respondent-Revenue Divisional Officer to complete the enquiry and pass final order within a period of two months 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.

JUSTICE R. KANTHA RAO

23rd February, 2015
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