

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

WRIT PETITION No. 23561 of 2015

BETWEEN

T. Rama Rao

...Petitioner

And

The State of Andhra Pradesh,
rep. by its Principal Secretary, Food and Civil Supplies
Department, Secretariat, Hyderabad and ors.

...Respondents.

DATE OF JUDGMENT PRONOUNCED: 04.08.2015.

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 |
| 2. Whether the copies of judgments may be
marked to Law Reporters/Journals. | NO |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment ? | NO. |

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 23561 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 Shop No. 903 of Kesavaraopeta-I village, Etcherla Mandal, Srikakulam District. A show cause notice was issued to the petitioner on 23.6.2015 alleging certain irregularities. The petitioner submitted his detailed explanation. After considering the explanation, the third respondent passed the impugned order dated 16.7.2015 cancelling the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

The allegations levelled against the petitioner are that the dealer/petitioner was distributing 1 ½ liters of kerosene oil to each card holder instead of 2 liters and that he was distributing the kerosene oil at higher rate i.e. at Rs.16/- per liter instead of Rs.15/- per liter. The said allegation was denied by the petitioner in his detailed explanation submitted to the third respondent by giving details of allotment of kerosene oil to his fair price shop from the months of January, 2015 to June, 2015. When the petitioner denied the allegation in his detailed explanation, burden is on the authorities to prove the said allegation. In stead of proving the same, the third respondent after narrating the facts of the case passed the impugned order cancelling the authorization of the petitioner by holding as follows:

“ The allegations made against Sri T. Rama Rao, F.P. Shop dealer, Kesavaraopeta, explanation submitted by him have been examined. In the case the allegations are (1) that he is distributing Kerosene oil to each card holders @ 1.1/2 lts. instead of @ 2 lts to each card holder and (2) that he is selling Kerosene oil at higher rates i.e. Rs.16/- per litre instead of Rs.15/- per Litre. Whatever allotment have been made he has to distribute the stock to the card holders as per the scale fixed by the Government. No instructions were issued to the F.P. shop dealers to distribute the essential commodities against the scale of supply. Further during the enquiry it is revealed that the dealer has distributed the K.oil at higher rates. There is no provision to sell the K.oil at higher rates. He has not submitted any proof that he has distributed the K.oil as per the rate fixed by the Government. Thus the allegations made against the F.P. shop dealer are held proved.

Therefore I under the powers vested to me under CI.5(5) of APS PDS (Control) Order, 2008. The FP shop authorization of Sri T. Rama Rao, FP Shop dealer, Kesdavaraopeta village of Etcherla Mandal is hereby cancelled.”

A Division Bench of this Court in **M.Kalyani Vs. District Collector, Prakasam district, Ongole** {2006(5) ALD 796 (DB)} held that when the competent authority is relying on the report of any other officer, he should furnish the same to the dealer/petitioner. In the case on hand, no such report was furnished to the petitioner/dealer nor any enquiry is conducted. In the absence of any supporting evidence to prove the allegations levelled against the petitioner, action contemplated by the third respondent cancelling the authorization of the

petitioner is contrary to law. In the circumstances, the impugned order dated 16.7.2015 passed by the third respondent is set aside. However, the third respondent is given liberty to conduct a proper enquiry in accordance with law after giving due opportunity to the petitioner and pass final order within three months from the date of receipt of a copy of this order. It is needless to mention that in view of setting aside the impugned order dated 16.7.2015, the petitioner is entitled to be continued as Fair Price Shop Dealer.

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 4th August, 2015.
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