

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

WRIT PETITION No.4494 of 2015

Between:

P. Nageswara Rao
... Petitioner

And

1. The State of Andhra Pradesh, rep. by its Principal Secretary,
Consumer Affairs, Food and Civil (CS.I) Department, A.P.
Secretariat, Hyderabad, and others.
... Respondents

DATE OF JUDGEMENT PRONOUNCED: 10-08-2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment 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 |

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THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.4494 of 2015

ORDER:

The petitioner was appointed as fair price shop dealer in respect of Shop No.1, Vandrangi Village, G. Singadam Mandal, Srikakulam District. While so, the local Member of the Legislative Assembly addressed a letter to the 3rd respondent, based on which the 4th respondent issued order dated 12.11.2014 placing the petitioner under suspension. He also issued a show cause notice on 12.11.2014 levelling three allegations. The petitioner submitted explanation on 21.11.2014 denying the said allegations. After receiving the explanation, the 4th respondent passed an order on 5.01.2015 cancelling the authorisation of the petitioner. Challenging the same, the present writ petition is filed.

The show cause notice issued to the petitioner contains following allegations:

1. He is not lifting the stock and distributing to the card holders properly.
2. Government send essential commodities to the F.P. shop of the above individual, but he failed to distribute to the card holders. The Tahsildar made alternate arrangements and distributed the stock through the VRO.
3. His wife is a Government employee which is against the Government norms.

Thus Sri Pasupureddy Nageswara Rao, F.P. Shop dealer, Vandrangi has contravened the provisions under Clause 5(1)(B)(i), Clause 22 (vii) and Clause 12 (iii) in G.O.Ms.No.52 Consumer Affairs, Food and Civil Supplies (CS-1) department dated 18.11.2008.

In response to the same, the petitioner submitted explanation, which reads as follows:

“I am lifting the stock every month and distributing to the Card holders. The allegation made by the Tahsildar G. Sigadam is a Sweeping Allegation. He could not furnish the month in which I have not lifted and distributed the E.Cs. to Card holders. Thus, the allegation is a false one. If his version is true he would have issued a Memo to me.

The Tahsildar, G. Sigadam has acted on the directions of the Sarpanch, G. Sigadam and the Tahsildar intentionally and forcibly arranged distribution through the Sarpanch to gain Political favour though the HUD HUD cyclone commodities were released in my favour. As the Sarpanch is a Political group leader the Tahsildar afraid of him and sent a report against me according to the wishes of the Sarpanch without proper enquiry.

As already submitted, my wife is a Public Servant working as Office Sub-ordinate from the year 1997 prior to issue of the above G.O., which G.O., came into force w.e.f. 2008.”

After receipt of the above explanation, he passed order dated 5.01.2015 cancelling the authorisation, wherein it was recorded that the petitioner attended the enquiry on 03.01.2015 and he stated that he is sticking to the explanation submitted earlier. He ultimately passed the order of cancellation by holding as follows:

“Accordingly the above individuals have attended Sri Pasupureddy Nageswara Rao, F.P. Shop dealer has represented that his earlier explanation issued is holds good. His wife Smt. P. Rajakumari has represented that she was appointed in the medical department on compassionate ground, that too, after appointment as F.P. shop dealer to her husband and the A.P. PDS Control Order, 2008 will not applicable to her case.

I have gone through the matter and perused the records. It is revealed that the F.P. shop dealer is not distributing the essential commodities properly to the card holders. He is always in drinking condition. His wife is Government servant. As per the Government instructions close relatives of the Government employees should not be appointed as F.P. Shop dealer. During the personnel enquiry she has agreed that she is a Government employee.

In the circumstances, stated above in accordance with the powers vested under Clause 5(5)

of A.P.S.PDS (Control) Order, 2008, the authorisation of the F.P. Shop, Vandrangi village of G. Singadam Mandal of Sri Pasupureddy Nageswara Rao is hereby cancelled.”

A perusal of the above order shows that the burden is cast on the petitioner to prove the allegations levelled against him. Since the petitioner denied the allegations it is the responsibility of the officer, who levelled the allegations, to prove the same. The ground on which the cancellation was passed stating that the petitioner was always in drinking condition, was not indicated in the show cause notice issued on 12.11.2014. The other ground on which the cancellation is based is that the dealer's wife is a Government servant. The wife of the petitioner appeared before the authority and stated that she was appointed on compassionate grounds after the appointment of the petitioner as fair price shop dealer. The 4th respondent did not verify whether such appointment violated the guidelines issued in that regard and without recording a finding, he simply cancelled the authorisation.

In the circumstances, the impugned order passed by the 4th respondent dated 5.01.2015 is set aside. The matter is remanded to the 4th respondent for conducting enquiry and for passing reasoned order within a period of three months from the date of receipt of a copy of this order.

The writ petition is accordingly allowed to the extent indicated above. As a sequel, miscellaneous petitions, if any, shall stand closed. No order as to costs.

A. RAMALINGESWARA RAO, J.

10th August, 2015
Js.