

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

* * * *

WRIT PETITION No.25848 of 2015

Between:
M.Eranna.

....Petitioner

and

The State of Andhra Pradesh,
Rep.by its Secretary,
Consumer Affairs, Food and Civil Supplies (CS.I) Department,
Secretariat, Secretariat Buildings, Hyderabad,
And others.

....Respondents

DATE OF JUDGMENT PRONOUNCED: 17.08.2015

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 Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. Whether His Lordship wishes to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.25848 of 2015

ORDER:

The petitioner was appointed as a fair price shop dealer of shop No.25 of Jakkalacheruvu Village, Gooty Mandal in Anantapur District. A show cause notice was issued to the petitioner on 24.03.2015 by framing two charges against the petitioner and the petitioner submitted his explanation. However, when the authorization of the petitioner was suspended, he preferred an appeal to the Joint Collector, who passed an

order on 08.05.2015 directing the second respondent to dispose of the case pending before him within a period of six weeks duly providing an opportunity of hearing to the petitioner. When the second respondent did not dispose of the case, as directed by the Joint Collector, the petitioner approached this Court and filed W.P.No.22358 of 2015 and this Court passed an order on 20.07.2015 directing the second respondent to complete the enquiry and pass final orders within a period of thirty days. Now, the second respondent passed an order on 01.08.2015 canceling the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

The charges leveled against the petitioner and the findings recorded are as follows:

- **Charge No.1:** The F.P.Shop dealer not maintaining the Stock Register and Sales register. He is maintained stock register one note book. Thereby the F.P.shop dealer violated Cl.22 (viii) of APSPDS Control Order 2008.

- **Explanation:** All the allegations made in charge are denied as not true. It is submitted that the respondent has maintained correct entries in the sales register and the above charge was framed against dealer only on numbering purpose without any base.

- **Finding:** As per the explanation of the FP shop dealer, he has maintained stock register in one note book instead of prescribed register. The charge is proved.

- **Charge No.2:** The F.P.Shop dealer is shortage of 1.54 Qtls of Rice and excess of 0.22 Qtls of Sugar. Thereby the F.P.Shop dealer violated Cl.17(c) of APSPDS Control Order 2008.

- **Explanation:** All the allegations made in above said charge are denied as not true. The FP Shop dealer has distributed rice and sugar to all card holders also and he is not having excess rice and without any documentary evidence the above charge is made against the dealer and above charge is framed only on guess work without enquiry.

- **Finding:** The distribution of PDS, AAY & AP rice is 43.71 qtls as on the date of inspection. As per clause 24(i) of APSPDS Control Order 2008, minor variation in respect of single commodity upto 1.5% may be allowed taking into consideration transactions in the month, if marginal variation 50½ kgs is taking into consideration, still 103 ½ kgs rice was shortage at the time

of inspection. With regard to sugar the FP Shop dealer has distributed 214 kgs upto date of inspection, if marginal variation is 3.21 kgs taken into consideration, still 18.79 kgs of sugar was excess at the time of inspection. The charge is proved. The Joint Collector, Anantapuramu also ordered that confiscated 100% entire seized stocks to the Government for the lapses committed by the FP Shop dealer u/s 6-A (1) of EC Act 1955 vide proceedings Rc.No.K3/261/2015, Dated 03.07.2015.

In view of the above two charges are proved and the Joint Collector, Anantapuramu also confiscated 100% entire seized stocks to the Government for the lapses committed by the FP Shop dealer u/s 6-A (1) of EC Act 1955.”

A perusal of the above indicates that the first charge is a minor charge coming under clause 24 of the Control Order. The second charge relates to the shortage of quantity and in the charge itself there was no indication with regard to the available stock and whether the said variation is beyond 1.5% or not. In the finding it was recorded that the said variation was beyond 1.5% without indicating how the 1.5% was calculated. Even assuming that the distributed commodity was taken into consideration, whether 1.5% was calculated on the total stock or only distributed commodity is not known. When the second respondent enquired into charge No.2 he should have relied on the entries in the stock register and calculated 1.5% based thereon. The dealer in his explanation clearly mentioned that the said charge was leveled against him without any documentary evidence.

In the circumstances, the impugned order dated 01.08.2015 is set aside and the second respondent is directed to pass a reasoned order within a period of thirty days from the date of receipt of a copy of this order, after putting the entries in the stock register to the petitioner.

The Writ Petition is, accordingly, allowed to the extent indicated above. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

17.08.2015
vs