

THE HON'BLE SRI JUSTICE A. V. SESA SAI

WRIT PETITION No.10839 OF 2009

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the order passed by the Revenue Divisional Officer, Guntur District, the 3rd respondent herein, vide proceedings in Rc.No.1826/06-B, dated 28.12.2007, cancelling the authorization of the petitioner's Fair Price Shop (FPS) dealership as confirmed by the 1st and 2nd respondents.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for the respondents and perused the material available before this Court.

The 3rd respondent issued a show cause notice, calling upon the petitioner to show cause as to why his FPS dealership should not be cancelled. In response to the said show cause notice, wherein as many as five charges were framed against the petitioner, the petitioner submitted his explanation. The 3rd respondent by way of an order, dated 28.12.2007, cancelled the authorization of the petitioner. As against the said order of cancellation, the petitioner filed an appeal before the Joint Collector, Guntur District, the 2nd respondent herein, who by way of an order dated 24.05.2008, dis-allowed the said appeal, upholding the orders of cancellation. Felt aggrieved by the said orders, the petitioner filed revision before the District Collector and District Magistrate, Guntur District, the 1st respondent herein, who by virtue of an order, dated 12.04.2009, dismissed the revision, upholding the orders passed by the 2nd and 3rd respondents.

Calling in question the validity and the legal acceptability of the

orders passed by respondents 1 to 3 herein, the present Writ Petition is filed.

This Court, while ordering *rule nisi* on 03.06.2009, in W.P.M.P.No.13932 of 2009, passed an order, directing the respondents herein not to make any permanent arrangements for filling up the vacancy. Subsequently, vide orders dated 09.06.2011 in W.V.M.P.No.3776 of 2009, this Court made the said order absolute.

Responding to *rule nisi* issued by the Court, a counter affidavit is filed on behalf of the respondents, denying the averments and allegations made in the affidavit filed in support of the Writ Petition and in the direction of justifying the impugned action. It is contended by the learned counsel for the petitioner that the orders under challenge in this Writ Petition are highly arbitrary, illegal, violative of principles of natural justice and in violation of Article 14 of the Constitution of India. It is further contended that the order passed by the 3rd respondent is a non-speaking order and that the 3rd respondent did not take into consideration the explanation offered by the petitioner from proper perspective and had the contents of the explanation been considered by the respondent authorities, the impugned orders in the Writ Petition would not have emanated.

Per contra, it is strenuously contended by the learned Government Pleader for Civil Supplies that the orders impugned in the Writ Petition are strictly in conformity with law and there is no statutory nor constitutional violation and as such the petitioner is not entitled to any relief from this Court under Article 226 of the Constitution of India.

The material available before this Court manifestly discloses that the 3rd respondent issued a show cause notice, dated 20.09.2006, framing as many as five charges against the petitioner while asking the

petitioner to show cause as to why his authorization should not be cancelled. Responding to the said show cause notice and denying the allegations made therein, the petitioner submitted explanation and thereafter the 3rd respondent passed the impugned order, dated 28.12.2007, and respondents

1 and 2 confirmed the said orders passed by the 3rd respondent.

A perusal of the impugned order, dated 28.12.2007, vividly reveals that except extracting the charges and the explanation offered by the petitioner, the 3rd respondent did not consider the contents of the explanation submitted by the petitioner while arriving at the conclusions. Appellate and revisional authorities, who are respondents 2 and 1 respectively, also confirmed the said orders passed by the 3rd respondent in a routine and mechanical manner without even adverting to the contents of the explanation offered by the petitioner. It is a settled and well established law that the orders passed by the quasi judicial authority should necessarily be supported by valid and convincing reasons and the authorities are obligated to consider the explanations offered by the petitioner before coming to a conclusion. In this connection,

it may be appropriate to refer to a judgment rendered by this Court in

Katamreddi Vasundhara v. Joint Collector, Ananthapur^[1]. In the said judgment at paragraph Nos.8 to 11, this Court held as under:

“8. From a reading of the entire order including the above reproduced portion, it is clear that the order is absolutely a non-speaking one, bereft of any reasons whatsoever. The approach of respondent No.2 in pointing out that the petitioner has not filed any documentary evidence, suggests that he had thrown the burden completely on the petitioner, to prove in the negative that she has not committed any irregularities. Respondent No.2 failed to discuss the charges individually and referred to any material in support of the charges framed against the petitioner. Having framed charges against the petitioner, the primary burden is on respondent No.2 to prove that the petitioner is guilty of those charges and if she fails to

discharge the onus shifted on her, it will then be permissible for respondent No.2 to hold that the charges are proved against her. Respondent No.2 has not made any such effort in this regard.

9. The law is well settled that every judicial and quasi-judicial authority has duty to give reasons. (See *Cyril Lasrado v. Juliana Maria Lasrado*^[2]). Duty to give reasons constitutes an integral part of natural justice and absence of reasons violates principles of natural justice. (See *State of West Bengal v. Alpana Ray*^[3]).

10. In *Vishnudev Sharma v. State of Uttar Pradesh*^[4], the Supreme Court referred to the judgment in *Alexander Machinery (Dudley) Limited v. Crabtree*^[5] and quoted with approval the following passage.

‘Failure to give reasons connotes to denial of justice. Reasons are live links between the mind and the decision taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the ‘inscrutable face of the sphinx’, it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision.’

11. In view of the failure of respondent No.2 to give any reasons whatsoever, the impugned order passed by him suffers from serious infraction of principles of natural justice and hence, the same is quashed.”

In the case on hand, the respondent authorities did not assign any reasons nor considered the explanation submitted by the petitioner and in the considered opinion of this Court, the said attitude is liable to be deprecated. In view of these reasons, this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the impugned orders, dated 28.12.2007, passed by the 3rd respondent, as confirmed in appeal by the Joint Collector, the 2nd respondent, vide

orders dated 24.05.2008, and as confirmed in revision by the District Collector, the

1st respondent vide orders dated 12.04.2008 in revision case No.9/08-S7 are liable to be set aside.

For the aforesaid reasons, this Writ Petition is allowed, setting aside the impugned orders dated 28.12.2007 passed by the 3rd respondent as confirmed by the respondents 1 and 2 on 24.05.2008 and 12.04.2009 and the matter is remanded to the 3rd respondent for fresh consideration and disposal in accordance with law after giving opportunity of hearing to the petitioner. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A. V. SESA SAI, J

19.01.2015

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[\[1\]](#) 2008 (4) ALT 475

[\[2\]](#) 2004 (6) ALT 58 = (2004) 7 SCC 431

[\[3\]](#) 2005 (7) SCJ 422 = 2006 (1) ALT 1.2 (DN SC).

[\[4\]](#) 2008 (1) SCJ 765 = (2008) 3 SCC 172

[\[5\]](#) 1974 ICR 120 (NIRC)