

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.13338 of 2012

—

Dated 05.06.2015

—

Between:

B.Balaraju

... Petitioner

and

The Revenue Divisional Officer

Anantapur District and 2 others

...Respondents

Counsel for the petitioner: None appeared

Counsel for respondents 1 & 2: GP for Civil Supplies (AP)

Counsel for respondent No.3: Ms.C.Vani Reddy

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to set aside the proceeding in Rc.No.D1-CS/1963/2012, dated 21-04-2012, of respondent No.1, whereby he has suspended the proceeding in Rc.No.139/B/2012, dated 16-04-2012, of respondent No.2.

I have heard the learned Counsel for both the parties and perused the record.

Respondent No.3 is the permanent fair price shop dealer. By Proceeding, dated 16-04-2012, respondent No.2 purportedly initiated disciplinary proceedings against respondent No.3 and suspended his fair price shop authorization. Feeling aggrieved by the same, respondent No.3 filed an appeal before respondent No.1. While entertaining the said appeal, respondent No.1 passed the impugned order whereby he has stayed the operation of the order of respondent No.2. Feeling aggrieved by the said order, the petitioner, who was appointed as a Temporary dealer as a stop-gap arrangement, has filed this Writ Petition.

A perusal of the impugned order shows that the main ground on which respondent No.3 has questioned the order of respondent No.2 was that the latter has no competence or jurisdiction to initiate disciplinary proceedings and suspend his fair price shop authorization, as such a power and jurisdiction is vested only in respondent No.1. In the light of the said plea, respondent No.1 has suspended the order of respondent No.2.

The main plank, on which the present Writ Petition is filed, is that questioning the order of respondent No.2, respondent No.3 has filed W.P.No.11621 of 2012, without disclosing the fact that he was simultaneously availing the remedy of appeal, and that the said Writ Petition was also disposed of on 24-04-2012 with the observation that if the suspension period is continued after 90 days, respondent No.3 cannot be prevented from lifting the essential commodities.

Under the second proviso to sub-clause (7) of Clause 5 of the

Andhra Pradesh State Public Distribution System (Control) Order, 2008, the power of suspension of a fair price shop dealer pending enquiry was also vested in the Assistant Supply Officer/Tahsildar for a period not exceeding 90 days. However, the learned Government Pleader has submitted that this proviso was deleted later, thereby denuding the Assistant Supply Officers/Tahsildars of the power of suspension, by the time respondent No.2 has passed the order suspending respondent No.3.

Inasmuch as the appeal is pending before respondent No.1, I do not intend to render a specific finding in this regard. Though, undoubtedly, non-mentioning of filing of appeal in the previous Writ Petition by respondent No.3 cannot be appreciated, the fact remains that even the said Writ Petition was disposed of partly in favour of respondent No.3 by observing that if the suspension continued beyond 90 days, the said respondent is entitled for restoration of supplies. In these facts and circumstances of the case, it is not appropriate for this Court to interfere with the impugned order of respondent No.1 . However, respondent No.1 is directed to dispose of the appeal, if the same is pending before him, after hearing both sides, within two months from the date of receipt of this order.

Subject to the above direction, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, interim order, dated 02-05-2012, is vacated and WPMP.No.16626 of 2012, filed by the petitioner for interim relief is disposed of.

(C.V.Nagarjuna Reddy, J)

Dt: 5th June, 2015

LUR