

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
WRIT PETITION No.30657 of 2015

ORDER:

Heard the learned counsel for petitioner and the learned Government Pleader for Civil Supplies for respondents.

2. The petitioner was appointed as a fair price shop dealer of shop No.4 of Kosigi Village & Mandal, Kurnool District. The shop of the petitioner was inspected by the Tahsildar, Kosigi and noticed some irregularities. Thereafter, the Tahsildar, Kosigi submitted a report on 31.07.2015, based on which, the third respondent issued show cause notice dated 07.08.2015 to the petitioner. The petitioner submitted his explanation on 18.08.2015 denying the allegations levelled against him. Being not satisfied with his explanation, the third respondent, by his order dated 22.08.2015, cancelled the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

3. This Court carefully perused the impugned order. The operative portion of the said order reads as follows:

“ The report of the Tahsildar, Kosigi and the explanation of the dealer have been perused. On verification of the explanation of the dealer it clearly shows that he is not maintaining the F.P. Shop regularly and not distributing ECs to the card holders properly. The village elders relating to this F.P.Shop have stated that they do not know she is Sujatha, more over the explanations submitted by the dealer is not convincing. As the dealer has contravened/violated the condition of A.P.P.D.S. Control Order 2008. The FP Shop dealership held by the dealer is hereby cancelled with immediate effect.”

4. When the petitioner has denied the charges leveled against him, burden is on the authorities to prove the charges and the petitioner cannot be asked to prove negative. A perusal of the impugned order indicates that no enquiry was conducted and only explanation of the petitioner was compared with the report of the Tahsildar and finally order of cancellation of authorization was passed. In the circumstances, this

Court is inclined to set aside the order dated 22.08.2015 passed by the third respondent.

5. Accordingly, the writ petition is allowed setting aside the order dated 22.08.2015 passed by the third respondent. However, it is open to the third respondent to conduct an enquiry by following due process of law and pass final order there on. Till the enquiry is completed and final order is passed, the petitioner shall not be disturbed from his fair price shop dealership. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 21.09.2015

TJMR