

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.25858 OF 2011

DATED:07-10-2015

Between:

Duggireddy Venkata Narayana                      ... Petitioner

And

The District Collector (C.S.)  
Prakasam District  
Ongole  
and others                                              ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. T. Niranjan, for Ms. K. Hemalatha

COUNSEL FOR RESPONDENT NOs.1 to 4: A.G.P. for Civil Supplies  
(AP)

COUNSEL FOR RESPONDENT NO.5              : Mr. J.U.M.V. Prasad

THE COURT MADE THE FOLLOWING:

-  
-

ORDER:

-

This writ petition is filed for a mandamus to set aside order dt.27.8.2011 in Rc. No.CS-2/3894/2010 of respondent No.1.

2. I have heard the learned counsel for the parties and perused the record.

3. The petitioner is a cardholder attached to fair price of Ankepalli Village of Marripudi Mandal, Prakasam District. Respondent No.5 is the fair price shop dealer of the said shop. Following an inspection by respondent No.4, of fair price shop of respondent No.5, a report dt.14.7.2009 was sent by him to respondent No.3. Based on the said inspection report, respondent No.3 has framed four charges against respondent No.5, viz., (i) that he is not supplying essential commodities to the card-holders in time properly; (ii) that he is selling the essential commodities at the rates more than what was fixed by the Government, in that while the rates fixed by the government for rice, sugar, kerosene oil and red-gram are Rs.2.00, Rs.13.50, Rs.9.75 ps., and Rs.30.00 respectively, he is selling the same at Rs.2.50, Rs.14.00, Rs.11.00 and Rs.35.00 respectively; (iii) that in spite of expiry of his fair price shop's authorization by 31.3.2000 he is running the shop without getting the same renewed and (iv) that he is abusing the women cardholders coming to the shop using unparliamentary language, and thereby he has violated the Andhra Pradesh State Public Distribution Control Order, 2008 and directed as to why his fair price shop's authorization should not be cancelled. Respondent No.5 has submitted his explanation to the charges. After conducting an enquiry, respondent No.3 has passed an order on 16.7.2010 holding that respondent No.5 is guilty of the charges and cancelling his authorization besides levying a penalty of Rs.3,000/-. However, a few days later respondent No.3 has passed a fresh order on

2.8.2010 only imposing on respondent No.5 a penalty of Rs.3,000/-. Feeling aggrieved by the said order the petitioner has filed an appeal before respondent No.2. By order dt.27.10.2010 respondent No.2 has allowed the appeal by holding that being quasi judicial authority respondent No.3 had no power of review and that therefore the later order passed by him on 2.8.2010 cannot be sustained. Assailing the said order, respondent No.5 has filed a revision before respondent No.1. By order dt.27.8.2011 respondent No.1 has allowed the said revision petition. Aggrieved by the said order, this writ petition is filed by the petitioner.

4. Undoubtedly, respondent No.3 has committed a serious illegality in passing two conflicting orders in succession. Once he has passed an order on 16.7.2010, he became functus officio, as the power of review is not conferred on him by the extant Control Order under which he has exercised his jurisdiction. To this extent, respondent No.2 is correct in holding the order dt.2.8.2010 as unsustainable. Indeed, even respondent No.1 has also, in all fairness, found fault with respondent No.3 in passing two conflicting orders within a span of 15 days, that too without mentioning the earlier order dt.16.7.2010 in his revised order dt.2.8.2010 and that being a quasi judicial authority he has no authority to review his own order. However, having said that, respondent No.1 has verified the record and observed that the charges do not pertain to financial misfeasance such as diversion or black-marketing of essential commodities by respondent No.5 and that since the charges framed against the dealer are not grave in nature, the same do not warrant cancellation of dealership.

5. On a careful scrutiny of the charges, I find myself in agreement with the view expressed by respondent No.1 that the nature of the charges framed against respondent No.5 does not call for extreme penalty of cancellation. As rightly observed by respondent No.1, charge of misappropriation of essential commodities is not made against the dealer. In fact, the charges are too vague and unsupported by any evidence. Hence, though respondent No.1 has rightly concurred with the view of respondent No.2 to the extent of lack of power in respondent No.3 to revise his earlier order, nevertheless, he has independently considered

the nature of the charges and rightly opined that they do not warrant cancellation. Exercising revisional powers, respondent No.1 is inhered with such power and he has rightly exercised the same.

6. For the above mentioned reasons, I do not find any illegality in the order of respondent No.1 impugned in this writ petition. The writ petition is accordingly dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.31881 of 2011 shall stand disposed of as infructuous.

---

C.V. NAGARJUNA REDDY, J

07-10-2015

*bnr*