HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 29273 of 2015

DATED 9th September, 2015

BETWEEN

AD Shiva Charan

…Petitioner

And

The State of Telangana, rep. by its Secretary,
Department of Civil Supplies, Secretariat, Hyderabad and ors.

….Respondents.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 29273 of 2015

ORDER:

Heard learned Counsel for the petitioner and learned Government Pleader for the respondents.

The petitioner is an Indian Oil Corporation dealer in MS and HSD having obtained licence under the provisions of A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980. The third respondent inspected the retail outlet of the petitioner on 01.08.2015 and noticed that the dealer was selling diesel at Rs.55.23 per liter against the Government fixed rate of Rs.51.23 per liter. A show cause notice was issued on 12.08.2015 and the petitioner submitted his explanation on 18.08.2015. After considering the explanation, the second respondent passed the impugned order of suspension of licence on 03.09.2015. Challenging the same, the present Writ Petition is filed.

The charge levelled against the petitioner reads as follows:

> "During the enquiry, the complainant has produced a copy of bill dt. 01.08.2015 in which the bill amount collected was Rs.55.23 of diesel whereas the Government fixed rate is Rs.51.23 per liter. The petrol bunk manager has produced the original bill book in which it was same. Hence it is contravention of Clause Cl.13. The ASO has recorded the statement of the petrol bunk manager."

The petitioner submitted his explanation stating that he received the communication with regard to reduction of price of diesel at 7.17 AM on 1.8.2015 and he sold the diesel at old price of Rs.55.23 per liter till the receipt of the communication and after receiving the communication at 7.17 AM, he immediately reduced the price of diesel to Rs.51.22 per liter. He enclosed a copy of the communication received from the Sales officer of IOC, Nizamabad. He also enclosed a copy of the old sales register commencing from Serial No. 24003 to 24006 in support of his case that he sold the diesel at lesser price after receiving the communication. However it is noticed that without conducting any enquiry, the impugned order was passed by the second respondent suspending the licence of the petitioner for a period of six months. Thus the impugned order suffers from an error apparent on the face of the record on the ground that no enquiry was conducted even though Clause 28 of the A.P. Petroleum Products (Licensing and Regulation of Supplies) Order, 1980 provides for personal hearing. Though there is a provision for appeal, in view of non conducting of enquiry and non consideration of the evidence produced by the petitioner before the second respondent, this Court prima facie satisfied that the impugned order is vitiated.

In the circumstances, the impugned order date 03.09.2015 passed by the second respondent is set aside and the matter is remanded to the second respondent for conducting an enquiry by giving due opportunity to the petitioner, considering the evidence produced by the petitioner and passing appropriate final order thereon within a period of thirty days from the date of receipt of a copy of this order.

The Writ Petition is allowed to the extent indicted above. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 9th September, 2015.
Msnrx