HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 20957 of 2015

DATED 9th July, 2015

BETWEEN

B. Dharmendra

....Petitioner

And

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Civil Supplies Department, Secretariat,
Hyderabad and ors.

...Respondents

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 20957 of 2015

ORDER:

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

The petitioner is the Fair Price Shop Dealer for Shop No. 62 of Adoni town, Kurnool District. The Fair Price Shop of the petitioner was inspected by the Tahsildar, Adoni and noticed some irregularities. Thereafter, the Tahsildar, Adoni submitted a report on 20.4.2015, based on which, the third respondent issued show cause notice dated 25.5.2015 to the petitioner. The

petitioner submitted his explanation denying the allegations levelled against him. Being not satisfied with his explanation, the third respondent by order dated 27.5.2015 cancelled the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

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

> " The report of the Tahsildar, Adoni 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 FP shop regularly and not distributing ECs to the card holders properly. More over the explanation submitted by the dealer is not convincing. As the dealer has contravened/violated the conditions of A.P.P.D.S. Control Order 2008, the FP shop dealership/authorization held by the dealer is hereby cancelled with immediate affect."

When the petitioner has denied the charges levelled 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 27.5. 2015 passed by the third respondent.

Accordingly the Writ Petition is allowed setting aside the order dated 27.5. 2015 passed by the third respondent. However, it is open to the third respondent to conduct an enquiry by following the 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.

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

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JUSTICE A.RAMALINGESWARA RAO

Dated 9th July, 2015.
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