

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

* * * *

WRIT PETITION No.25620 OF 2015

—
—

Between:

A.Mohana krishna

.. Petitioner

And

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

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 13.08.2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 25620 of 2015

ORDER:

The petitioner was appointed as a fair price shop dealer of shop No.25, Machapuram Village, Nandavaram Mandal, Kurnool District. On an earlier occasion, when essential commodities were not supplied to the petitioner, he filed W.P.No.3565 of 2015 and, by virtue of the orders passed in the Writ Petition, essential commodities were supplied to the petitioner. It appears that the Tahsildar, Nandavaram submitted a report on 25.06.2015 to the second respondent, basing on which, a show cause notice dated 08.07.2015 was issued to the petitioner levelling two charges against him. The petitioner submitted his explanation on 13.07.2015 by registered post. After receipt of explanation, the second respondent passed the impugned proceedings dated 25.07.2015 cancelling the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

The charges levelled against the petitioner read as follows:

1. That the dealer has not handed over M.D.M. Rice H.M., M.P.U.P School, Machapuram which was allotted for the month of 12/2014 in R.O.No.16125, dated 05.12.2014.
2. That there is found variation 3.72 qlts. of P.D.S. of rice at the time of inspection (Excess).

With respect to the first charge, the petitioner, in his reply dated 13.07.2015 sent by registered post, stated that he delivered the required quantity to the Head Master, M.P.U.P. School, Machapuram on 14.12.2014, and enclosed a copy of the receipt, but a finding was recorded that the dealer has not enclosed any receipt or acknowledgment and the explanation was not

convincing.

If an enquiry was conducted, the dealer would have explained whether he has enclosed the receipt or not. In the absence of any enquiry, the second respondent cannot come to the conclusion contrary to the explanation submitted by the petitioner. Similarly, in respect of second charge, a baseless finding was recorded, based on the report of the Tahsildar, Nandavaram, which reiterated initiation of 6A proceedings against the petitioner. Ultimately, the impugned order was passed which reads as follows:

“The explanation of the dealer has been perused. The dealer has not produced any record evidence in support of this explanation. The charges are grave in nature. The explanation of the dealer are not convincing. As there is prima facie contravention of A.P. State PDS (Control) Order, 2008, the F.P.Shop dealership held by Sri A.Mohanakrishna, F.P.Shop No.25, Machapuram Village of Nandavaram Mandal, is hereby cancelled with immediate effect for smooth running of P.D.S.”

No enquiry was conducted by the second respondent even though he is supposed to conduct an enquiry before cancellation. In the circumstances, this Court is constrained to set aside the order dated 25.07.2015 and remand the matter to the second respondent to conduct an enquiry in respect of the allegations levelled against the petitioner, by giving due opportunity to him, and consider his explanation, and pass appropriate orders thereon, within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed.

Miscellaneous petitions, if any, pending in this writ petition shall stand disposed of. No order as to costs.

A. RAMALINGESWARA RAO,J

Date:13.08.2015
usd