

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.21981 of 2015

ORDER:

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

The petitioner was appointed as fair price shop dealer of shop No.150 of Vinayakapalli village, S.Kota Mandal, Vizianagaram District. Based on the report submitted by the 4th respondent, 6A proceedings were initiated against the petitioner on the ground that during inspection of the 4th respondent, he found 130 litres of kerosene oil which was filled in five plastic cans and it was diverted to the black market. A show cause notice was issued to the petitioner by the 2nd respondent and the petitioner submitted his explanation. After submission of explanation, the order of cancellation of authorization was passed. Challenging the said order, the present writ petition is filed.

In respect of 6A proceedings, it appears that the Joint Collector ordered for confiscation of 50% of the value of the seized stock to the Government with a direction to the petitioner to be more careful in future and also directed the 3rd respondent to take necessary action. Thereafter, the present order was passed after receiving explanation from the petitioner by holding as follows:

"On perused the explanation offered by the dealer is not convincing. Being a responsible dealer, it is observed that, during the course of enquiry found 130 litres of K.Oil which was filled for 5(five) plastic cans is an ample evidence that the respondent has diverted the stock to the black market for illegal gain and violated the Clause 17(b) and 17(c) of conditions laid down in A.P.PDS Control (Order), 2008. Hence, the authorization of the dealer is hereby ordered

cancelled."

It appears that no enquiry was conducted on the charge after submission of explanation by the petitioner. The enquiry is a *sine quo non* for coming to the conclusion with regard to the charge levelled against the petitioner. In the absence of such enquiry, this Court is constrained to set aside the impugned order dated 15.05.2015.

Accordingly, this writ petition is allowed. However, this order will not prevent the 3rd respondent from conducting enquiry and passing appropriate orders in accordance with law. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any pending in this writ petition, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 16.07.2015

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