

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.30311 of 2015

ORDER:

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

2. The petitioner was appointed as the fair price shop dealer of shop No.27 of Ontedudinne Village, Gonegondla Mandal, Kurnool District. The shop of the petitioner was inspected by the Tahsildar, Gonegondla and noticed some irregularities. Thereafter, the Tahsildar, Gonegondla submitted a report on 30.06.2015, based on which, the third respondent issued show cause notice dated 14.07.2015 to the petitioner. The petitioner submitted her explanation denying the allegations levelled against her. Being not satisfied with his explanation, the third respondent by order dated 29.07.2015 cancelled the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

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

“ The explanation of the dealer has been perused. The explanation of the dealer is not convincing. The dealer herself has accepted that she is not residing in the village and the F.P.Shop is being run by another person i.e., Uma Mahesh brother of her husband. The charge framed against the dealer are proved. The charges are grave in nature. The report of the Tahsildar has been taken into consideration. The dealer has contravened the conditions of the APPDS (Control) Order 2008. Hence, the authorization of the dealer hereby cancelled with immediate effect.”

4. When the petitioner has denied the charges leveled against her, 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 29.07.2015 passed by the third respondent.

5. Accordingly the writ petition is allowed setting aside the order dated 29.07.2015 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 thereon. Till the enquiry is completed and final order is passed, the petitioner shall not be disturbed from her fair price shop dealership.

6. The writ petition is allowed to the extent indicated above. No order as to costs. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 16.09.2015

TJMR