

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
WRIT PETITION No.8815 of 2015

ORDER:

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

2. The petitioner was appointed as a fair price shop dealer of Bairavanipeta Village, Srikakulam Mandal and District. While so, on 22.05.2014, the shop was inspected by the Civil Supplies Deputy Tahsildar, Srikakulam along with his subordinates and seized the stock. In respect of the variations noticed in the stock, a case under Section 6-A of the Essential Commodities Act was booked and it is pending. However, the third respondent issued a show cause notice on 29.10.2014 and the petitioner submitted his explanation on 14.11.2014. Thereafter, the third respondent passed a final order of cancellation of authorization, by his order dated 07.02.2015. The petitioner filed an appeal before the second respondent challenging the order of cancellation of authorization on 09.03.2015, and when no orders were passed on the stay application, the present Writ Petition is filed.

3. The show cause notice indicates the following charge against the petitioner.

“ That Sri N.Venkata Rao, CSDT, Srikakulam, Smt.S.Sarada, Enf. RI and S.Sankara Rao, MRI, Srikakulam, on 22.05.2014 have inspected the FP Shop, Byrivanipeta-I and found stock variations of (-) 31 Kgs of Rice and (+) 36 Kgs of RG Dal. Thus Smt.Palavalasa Rajeswari, W/o. Ramarao F.P.Shop Dealer Byrivanipeta-I Village, Srikakulam Mandal being a responsible F.P.Shop dealer has failed to distribute the Essential commodities i.e., Rice pertaining to the cardholders and thus he contravened the provisions under Cl.17(b), Cl.17(c) and Cl.12(xviii) of A.P.S.PDS (Control) Order, 2008, and conditions of the Authorisation issued thereunder.”

4. The petitioner submitted a detailed explanation and without considering the same, the third respondent passed an order on 07.02.2015 holding as follows:

“ During the time of inspection by the Enf. Dy. Tahsildar and Enf. Revenue Inspector, there is a variation of stock of (-) 31 kgs of Rice and (+) 36 kgs of RG Dall. Further that 58 cardholders have represented that the dealer is not distributing the essential commodities properly. Thus there is irregularity on the part of the delinquent F.P. shop dealer. The delinquent F.P. Shop dealer denied the charge, but he has not submitted any substantial evidence to prove his innocence. Simply the denying the charge it cannot be treated that he is innocence in this case. Hence the explanation is not accepted.

In the circumstances, I hold that the delinquent Smt.Palavalasa Rajeswari, W/o. Ramarao FP Shop No.16 Byrivanipeta is doing clandestine business and contravened the provisions of Law under Cl.17(c), Cl.17(b), Cl.12 of APSPDS (Control) Order, 2008. ”

5. From a reading of the above extract of the order, it is clear that the third respondent has not given any finding with regard to the charge leveled against the petitioner, even though the petitioner submitted a detailed explanation.

6. In the circumstances, the order of the third respondent dated 07.02.2015 is set aside and the Writ Petition is allowed. However, the third respondent shall conduct an enquiry in respect of the charge leveled against the petitioner after giving due opportunity to the petitioner and pass final orders within a period of three months from the date of receipt of a copy of this order. In the meanwhile, the third respondent shall supply the stock to the petitioner. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 20.07.2015

Note: Issue CC by 22.07.2015.

B/o. TJMR