

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

WRIT PETITION No.25328 of 2015

BETWEEN:

Popuri Adishesamma,
w/o. late Sri Tirupathi Rao

.. **Petitioner**

AND

The State of Andhra Pradesh,
rep.by its Principal Secretary,
Civil Supplies Department,
A.P. Secretariat, Hyderabad,
and 3 others.

.. **Respondents**

DATE OF JUDGMENT PRONOUNCED: 12.08.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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| 1. Whether reports of Local newspapers
may be allowed to see the judgments? | YES/NO |
| | |
| 2. Whether the copies of judgments may be
marked to Law Reporters/Journals. | YES/NO |
| | |
| 3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment ? | YES/NO |

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.25328 of 2015

ORDER:

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

_____ The petitioner is the fair price shop dealer for shop No.21 of
Inagallu Village, Parchur Mandal, Prakasam District. While so, on

16.10.2014 the fair price shop of the petitioner was inspected by the Enforcement Deputy Tahsildar, Parchur Mandal and other staff and noticed some irregularities. They prepared panchnama and seized the entire ground stock. Proceedings u/s.6-A of Essential Commodities Act were also initiated against the petitioner. Later, the respondents have stopped supplying essential commodities to the petitioner. Aggrieved by the inaction of the respondents in not releasing the commodities during subsistence of the authorization of the petitioner, she filed W.P.No.32240 of 2014 before this Court. Thereupon, the commodities were released on 28.10.2014 and the same was recorded by this Court while disposing of the said writ petition by order dated 29.10.2014.

However, based on the report of the Enforcement Deputy Tahsildar, the third respondent-Revenue Divisional Officer, Ongole issued show cause notice dated 25.10.2014 to the petitioner. On 15.06.2015 the petitioner submitted her explanation denying the allegations levelled against her. Being not satisfied with the said explanation, the third respondent, by order dated 17.07.2015, cancelled the authorization of the petitioner. Challenging the same, the petitioner filed statutory appeal before the second respondent-Joint Collector (CS Wing), Ongole on 05.08.2015 along with stay application. Though the petitioner filed an appeal before the second respondent, when no orders have been passed so far on the appeal as well as on the stay application, the petitioner filed this present writ petition. In the present writ petition, the petitioner also prayed this Court to set aside the orders of the third respondent dated 17.07.2015.

This Court carefully perused the impugned order, dated 17.07.2015. The operative portion of the said order reads as follows:

"In the circumstances, the F.P. Shop Dealership authorization of Smt. P. Adishesamma, F.P. Shop Dealer, Shop No.21, Inagallu village of Parchur Mandal is hereby cancelled as the dealer has involved in major irregularities i.e. diversion of P.D.S. Rice a quantity of 4.71 quintals into black market. The Tahsildar, Parchur Mandal is directed to implement the orders with immediate effect. The Tahsildar, Parchur Mandal is instructed to make alternate arrangements by attaching the

cards of this F.P. Shop to the nearby F.P. Shop for not causing any inconvenience to the Public Distribution System and to the cardholders.”

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When the petitioner has denied the charges levelled 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 Enforcement Deputy Tahsildar and finally order of cancellation of authorization was passed. In the circumstances, this Court is inclined to set aside the order dated 17.07.2015 passed by the third respondent.

Accordingly, the order dated 17.07.2015 passed by the third respondent is set aside. 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.

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

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A. RAMALINGESWARA RAO, J

Date: 12.08.2015

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Note: Issue CC in one week.

(B/o.) Isn