

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

WRIT PETITION No. 25156 of 2015

BETWEEN

Patta Venkata Ramana

....Petitioner

And

The State of Andhra Pradesh, rep.by its Secretary,
Food, Civil Supplies and Consumer Affairs Department,
Secretariat, Hyderabad and ors.

.....Respondents.

DATE OF JUDGMENT PRONOUNCED: 11.08.2015.

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 |
| 2. Whether the copies of judgments may be
marked to Law Reporters/Journals. | NO |
| 3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment ? | NO. |

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 25156 of 2015

ORDER:

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

The petitioner was a permanent Fair Price Shop Dealer of Ponnam Village, Srikakulam Rural Mandal, Srikakulam District. While so, the second respondent issued a show cause notice on 16.6.2015 based on the report submitted by the Tahsildar, Srikakulam on 23.4.2015 stating that 'the Deputy Tahsildar, Civil Supplies inspected the fair price shop of the petitioner on 15.4.2015 and noticed some irregularities. The petitioner submitted his explanation to the said show cause notice on 22.6.2015. After receiving the explanation, the second respondent by impugned order dated 15.7.2015 cancelled the authorization of the petitioner. Challenging the same, the present Writ Petition is filed.

The order dated 15.7.2015 passed by the second respondent cancelling the authorization of the petitioner reads as follows:

“ The allegation levelled against the petitioner, the show cause notice issued to the FP Shop dealer explanation submitted by him and evidence produced before the RDO has been examine. The allegations against the respondent Sri Kornu Govinda Rao and his family members of Ponnam are distributing the ECs to the card

holders instead of Original FP shop dealer Ponnampalayam i.e. Sri P.V. Ramana every month. It is further reported that Sri P.V. Ramana of Ponnampalayam is a regular FP Shop Dealer. But the original dealer P.V. Ramana has not attending the duties of FP shop Ponnampalayam Sri Kornu Govinda Rao. Ponnampalayam is acting as binami dealer in place of Original FP Shop dealer. Further the respondent has to be distribute K.Oil @ 1 liter who are having Gas connection and @ 2 litres to the remaining card holders. But the FP Shop Dealer has distributed 1 ½ litres of K.Oil to all card holders instead of 2 litres every month. The respondent is not produced weights and measures certificate and Name board and price boards are not available at FP Shop and also Stock Register and Sales Registers are not produced by the FP Shop dealer before the inspecting officers. The respondent in his explanation has simply denied the allegations. He has not produce any evidence in support of his explanation. Thus it is proved that the delinquent FPO Shop dealer has committed irregularities and contravened the provisions under Cl.7(1), Cl.17(a), Cl.17(b) of APS PDS (Control) Order 2008 and provisions under Cl.12(xiii)(xiv) in annexure to G.O.Ms.No.4 CAF & CS (CS.I) Dept, dt. 19.2.2011 by running the depot through a benami dealer.”

A bare perusal of the above observations indicate that they are mere repetitions of the allegations levelled against the petitioner. There is no iota of evidence shown in the above observations so as to come to a conclusion that the allegations levelled against the petitioner were proved. Initial burden is on the officers to prove the allegations levelled against the petitioner when the petitioner denied the same. The respondents ought to have examined the neighbours with regard to the allegation of running the FP shop by a benami and verified the

stock registers with regard the allegation of supply of kerosene oil. None of the cardholders have been examined with regard to the supply of kerosene oil. In the circumstances this Court is satisfied that no proper enquiry has been conducted by the second respondent and therefore the impugned order dated 15.7.2015 is set aside and the matter is remanded to the second respondent to conduct enquiry afresh by giving due opportunity to the petitioner and pass appropriate orders thereon within a period of three months from the date of receipt of a copy of this order. Till such time, the petitioner shall be continued as fair price shop dealer.

The Writ Petition is accordingly allowed to the extent indicated above. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE A. RAMALINGESWARA RAO

DATED 11th August, 2015.
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