

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

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WRIT PETITION No. 29820 OF 2015

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Between:

D.Varalakshmi Devi

.. Petitioner

And

The State of A.P., rep. by Principal Secretary, Civil Supplies
Department, Consumer Affairs Department, Secretariat, Hyderabad
and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 14-09-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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|---|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.29820 of 2015

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondents.

This Writ Petition is filed challenging the order passed by the second respondent in revision, confirming the order of the third respondent in appeal, against the order of cancellation passed by the fourth respondent.

The fourth respondent passed an order on 13.03.2012 framing the following charges against the petitioner:

“Charge No.1: That the Fair Price Shop Dealer failed to maintain registers and records prescribed by Government which is in violation of condition 4(i) of the authorization issued under the provisions of the A.P. State Public Distribution System (Control) Order, 2008.

Charge No.II: That the Fair Price Shop was found to be running by a person other than the authorized Fair Price Shop Dealer which is in violation of paragraph 2 (1)(a) of Annexure-I of the A.P. State Public Distribution System (Control) Order, 2008.

Charge No.3: That the Fair Price Shop Dealer denied the supply as per the entitlement of scheduled commodities under Public Distribution System to the Household Supply Cardholders which is in violation of clause 22(iii) of the A.P. State Public Distribution System (Control) Order, 2008.”

The main allegations relate to charge Nos.2 and 3. In respect of charge Nos.2 and 3, the petitioner submitted her explanation as follows:

Explanation to Charge No.II: Permanent resident of Ratnapalli Village. My husband fell sick and he is in need of medical attendance, therefore frequently visiting Hyderabad but not to reside there. Her husband was discharged and there is no need to go to Hyderabad. The allegation in the charge is far away from truth and at no point of time other member was running the fair price shop. Member of Hindu Joint Family and my father-in-law, an elderly man in the Village and those inimical depose against her out of 27 card holders and may speak against her. There is no iota of truth in it and thereby she has not violated para 2(1)(a) of Annexure – I of Orders, 2008.

Explanation to charge No.III: there is no such violation of clause 22 (iii) of A.P. State Public Distribution System (Control) Order, 2008 lifting the

commodities from M.L.S. Point, Veldurthy as per orders of the learned Tahsildar of Veldurthy Mandal as per entitlement of schedule. No contra or complaint against her in lifting and distribution of entitlement of scheduled commodities.”

After considering the same, the fourth respondent passed an order cancelling the authorization of the petitioner. Against the same, she preferred an appeal to the third respondent raising several grounds. The third respondent passed an order, confirming the order passed by the fourth respondent, which reads as follows:

“The Deputy Tahsildar, (CS), Dhone in his enquiry report dated 12.04.2013 stated that as per the orders of the Joint Collector, Kurnool, he visited the F.P. Shop NO.9 of Ratnapalli on 12.04.2013 and the F.P.shop dealer was not present. Her father-in-law who is present in the shop informed that Smt D.Varalaxmi F.P. shop dealer went to Hyderabad on 06.04.2013 for medical treatment of her husband and she will come back on 19.04.2013. The Civil Supplies Dy. Tahsildar has also reported that one group of card holders have stated that the F.P. Shop dealer is distributing the E.Cs properly and another group of cardholders have stated that the F.P. shop dealer is not residing in the village and she is residing at Hyderabad, as her husband Koteswar is working as Home guard at Hyderabad. The SC card holders have not come forward to give their statements due to prevailing conditions in the village.

Having heard the arguments and gone through the facts contained in the file, it is noticed that the appellant has failed to produce any reliable evidence in support of her claim.

In the circumstances established above, I have found no reason to interfere in the orders passed by the Revenue Divisional Officer, Kurnool dated 13.03.2012. As such, the same are hereby confirmed.”

The petitioner preferred a revision to the second respondent and the second respondent confirmed the order passed by respondent Nos.3 and 4. The second respondent, by his order dated 23.06.2015, held as follows:

“As seen from the records and on hearing of the arguments of the learned Advocate and also the District Supply Officer, Kurnool, I am of the opinion that there are no substantial grounds to agree with the contention of the learned Advocate and it is clear from the evidence that the dealer is not residing in the village, which is essential condition for holding the Fair Price Shop. In view of the above, the appeal is dismissed.”

A perusal of the orders passed by respondent Nos.2 and 3 shows that they have not conducted any independent enquiry but relied on the report submitted by the subordinate officer and confirmed the order passed by the fourth respondent. The third respondent should have conducted an enquiry by giving due opportunity to the petitioner when the petitioner filed an appeal challenging the order passed by the fourth respondent dated 13.03.2012. In the process of filing appeal and revision, already three years had elapsed without any substantial progress in the case except confirming the order passed by the fourth respondent without making any independent enquiry. The petitioner has been continuing as a fair price dealer all through by virtue of the orders passed by this Court pending appeal and revision. The admission of the present Writ Petition, and consideration of the Writ Petition at a later stage, would again involve considerable time. Hence, the Writ Petition is taken up for consideration at the admission stage itself.

In view of the orders passed by respondent Nos.2 and 3 having been not satisfactory, this Court is constrained to set aside the order passed by respondent No.2 dated 23.06.2015, confirming the order of the third respondent dated 30.04.2013, and remand the matter to the third respondent for conducting an enquiry in respect of the allegations levelled against the petitioner, and found proved by the fourth respondent in his order dated 13.03.2012, and pass appropriate orders thereon, within a period of three months from the date of receipt of a copy of this order. Pending disposal of the appeal before the third respondent, it is needless to observe that the petitioner shall be continued as a fair price dealer.

The Writ Petition is allowed at the stage of admission.

Miscellaneous petitions, if any, pending in this writ petition

shall stand disposed of. No order as to costs.

A. RAMALINGESWARA RAO,J

Date:14.09.2015
Note:CC one week
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