

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.27728 of 2015

Date: 31-08-2015

Between:

Ponnana Vijayakumari

PETITIONER

AND

1. The State of Andhra Pradesh, rep. by its Secretary, Food, Civil Supplies & Consumer Affairs Department, A.P. Secretariat, Hyderabad, and others.

RESPONDENTS

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.27728 of 2015

ORDER:

The petitioner was appointed as fair price shop dealer of Shop No.14 of Kommuvalasa Village, L.N. Peta Mandal, Srikakulam District. It appears that one Smt. K. Vijaya Lakshmi, MPTC and some others submitted a petition on 01.11.2014 before the 2nd respondent alleging that the petitioner was diverting the essential commodities to black market. Basing on the same, the Deputy Tahsildar, Ponduru was directed to conduct enquiry and submit a report. Accordingly the Deputy Tahsildar, Ponduru submitted a report dated 16.12.2014. As the said report was incomplete, the 3rd respondent-Tahsildar, L.N. Peta was directed to conduct enquiry. The 3rd respondent submitted his report dated 21.04.2015. On the basis of both the reports show cause notice dated 21.05.2015 was issued to the petitioner with regard to the irregularities alleged to have taken place in November 2011 and February 2012. Though no record was available with the petitioner the petitioner submitted an explanation according to her memory and sought for copies of the record. But without furnishing the copies of the record, the petitioner was asked to attend the enquiry on 04.07.2015 and the petitioner attended the said enquiry. Thereafter, the impugned order was passed on 15.07.2015 cancelling the authorisation of the petitioner.

A perusal of the show cause notice goes to show that the allegations are relating to November 2011 and February 2012 i.e., nearly three years prior to the issuance of show cause notice. Though the petitioner submitted explanation based on her memory and

requested for production of record, no record was produced or shown to her at the time of enquiry. Ultimately, the order of cancellation was passed without producing the record.

In the absence of production of record, it cannot be said that the enquiry conducted by the 2nd respondent is proper when so many details relating to the card holders, pertaining to November 2011 and February 2012, who died and migrated are found in the show cause notice, as the petitioner would not be in a position to explain the irregularities. The petitioner should have been given an opportunity in respect of each card holder where irregularities were alleged. This Court in similar set of circumstances held that the dealer is entitled for a copy of the enquiry report and in the absence of furnishing the enquiry report, the order passed by the competent authority is vitiated and the same is liable to be set aside.

In view of the same, the impugned order dated 15.07.2015 passed by the 2nd respondent is set aside and the matter is remanded to the 2nd respondent for conducting enquiry afresh by furnishing a copy of the report of the Deputy Tahsildar, Ponduru and also copies of concerned record to the petitioner enabling her to submit effective representation against the allegations levelled against her. It is made clear that the 2nd respondent shall complete the enquiry within a period of 30 days from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

A. RAMALINGESWARA RAO, J.

31st August, 2015
Js.