

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

WRIT PETITION No. 22953 of 2015+99

BETWEEN

K.Mahesh

....Petitioner

And

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Department of Civil Supplies,
Secretariat, Hyderabad and ors.

DATE OF JUDGMENT PRONOUNCED: 24.7.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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.

HONOURABLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No. 22953 of 2015

ORDER:

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

The petitioner was appointed as Fair Price Shop Dealer for Shop No.22 of Molagavalli village, Alur Mandal, Kurnool District. The Fair Price Shop of the petitioner was inspected by the Assistant Supply Officer, Adoni and noticed some irregularities. Pursuant to the same, a report has been submitted, based on which, the third respondent issued show cause notice dated 16.3.2015 to the petitioner. The petitioner submitted his explanation on 23.3.2015 denying the allegations levelled against him. Being not satisfied with his explanation, the third respondent by order dated 27.3.2015 cancelled the authorization of the petitioner. Challenging the same, the petitioner filed Writ Petition No. 9580 of 2015 and this Court by order dated 7.4.2015 allowed the said Writ Petition, setting aside the order of the third respondent dated 27.3.2015. After receipt of the order of this Court dated 7.4.2015, within few days, the impugned order dated 14.7.2015 cancelling the authorization of the petitioner has been passed by the third respondent. Challenging the same, the present Writ Petition is filed.

This Court carefully perused the impugned order passed by the third respondent wherein after narrating the charges and

explanation of the petitioner, held as follows

“ As the enquiry is pending the dealer has filed a W.P. in the Hon’ble High Court of Andhra Pradesh Hyderabad.(WP.95800/2015). The Hon’ble Government has set aside the orders passed by 3rd respondent on 27.3.2015 (i.e. Revenue Divisional Officer, Adoni) and W.P. is allowed. As the enquiry is pending with the Revenue Divisional Officer a letter has been addressed to the Tahsildar, Alur Mandal on 08.06.2015 (Rc.M.461/2015) from this office, for offering his remarks on the explanation of the dealer. In response the Tahsildar, Alur in his reference 5th cited above has informed that the explanation of the dealer is not convincing and all the charge framed in the Show Cause Notice are held proved and the dealer deserves punishment for smooth running of P.D.S.

The report of the Tahsildar, Alur Mandal and the explanation of the dealer have been perused. On verification of the explanation of the dealer, it clearly shows that he is not maintain the F.P. Shop regularly and not distributing ECs to the card holders properly. More over the explanation submitted by the dealer is not convincing. It clearly shows that the dealer has contravened/violated the condition of A.P.P.D.S. Control Order, 2008. The FP Shop dealership/authorization held by the dealer is hereby cancelled with immediate effect.”

A perusal of the order indicates that the report of the Tahsildar was not furnished to the petitioner and no enquiry was conducted. A Division Bench of this Court in **Ambati Srinivasulu Vs. District Collector** {2006(1) ALT 273 (DB)} opined that rules of natural justice are multi-faceted and multi-dimensional and the power of judicial review can be exercised only when the order of the quasi judicial authority contains

reasons. The impugned order discloses no proper reasons while cancelling the authorization of the petitioners.

In **M.Kalyani Vs. District Collector, Prakasam district, Ongole** {2006(5) ALD 796 (DB)} it was held as follows:

“In our opinion, the order passed by respondent No.3 cancelling the authorization of the appellant suffers from patent violation of the rules of natural justice and the learned Single Judge gravely erred by refusing to annul the same. It is not in dispute that the report of the Mandal Revenue Officer, which formed the basis of the charges, was not supplied to the appellant. In **K.Radha Krishna Naidu v. Director of Civil Supplies, Hyderabad and others**, 1996 (1) ALD 473 = 1996 (1) LS 456 (AP), it was held that the primary report on the basis of which the charges were framed by the Licensing Authority against the dealer, being not furnished to the dealer, vitiates the proceedings due to violation of the principles of natural justice and absence of sufficient opportunity to the dealer to defend his case effectively. It was further held that the reasonable opportunity should be real and effective and simply because the petitioner submitted his explanation, it does not fulfill the requirement of reasonable opportunity, more so, when the show cause notice would clearly indicate that the only basis is the report. In that case the petitioner therein had been given opportunity of personal hearing but even then the Court held that the opportunity was not real inasmuch as the basic document had not been supplied to the dealer. In **S.Malla Reddy v. M. Vijayalakshmi and others**, 2005 (3) ALT 100 = 2005 (5) ALD (NOC) 174, this Court held that the authorization of fair price shop could not have been cancelled on the basis of vague notice.”

Thus it is clear that when the order of cancellation is passed based on a report, that report should be furnished to the dealer. It appears that the order of cancellation has been passed based on the report of the Tahsildar. In the absence of proper reasons and non supply of copy of the report of the Tahsildar, the impugned orders passed by the third respondent are vitiated. The third respondent has abdicated his power. In these circumstances, this Court is inclined to set aside the order dated 14.7.2015 passed by the third respondent cancelling the authorization of the petitioner.

The Writ Petition is accordingly allowed. However, this order will not preclude the third respondent from conducting an enquiry in respect of the charges levelled against the petitioner and pass appropriate orders thereon in accordance with law.

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 24th JULY, 2015.
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