

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No.17866 OF 2016

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed to declare the action of the 4th respondent in issuing the impugned proceedings in Rc.No.271/2016-C, dated 25.05.2016, suspending the authorization of the petitioner to run Fair Price Shop No.5, Daida Village, Gurazala Mandal, Guntur District, without proper consideration of the explanation submitted by her, as arbitrary and illegal and consequently, set aside the same.

2. Case of the petitioner is that she was appointed as dealer to the aforesaid Fair Price Shop in the year 2000 for supply of essential commodities. The authorization of the said shop is being renewed from time to time. While things stood thus, on 13.04.2016, the 6th respondent along with his personnel visited the shop of the petitioner and verified the stock registers with the physical stock available and then prepared mediators report alleging that there are variations in the stock and took away the records available at the shop due to political influence. On 18.04.2016, when the petitioner approached the 5th respondent for supply of stock, the 5th respondent refused for supply of stock for the month of May, 2016 as he was instructed by respondent No.4. Thereafter, the 4th respondent issued proceedings on 09.05.2016 calling for explanation from the petitioner. Accordingly, she submitted explanation on 11.05.2016. But, the 4th respondent without considering the same, issued the impugned proceedings suspending the authorization of petitioner's Fair Price Shop.

3. Suspension pending enquiry was made on account of alleged deficiency in the stocks i.e., Qntls. 3.72 Kgs of PDS rice and Qntls. 0.43 Kgs of Sugar. Pursuant to the impugned

proceedings, 25.05.2016, the petitioner had submitted explanation asserting that Qntls. 3.72 kgs of PDS rice and Qntls. 0.43 Kgs of sugar, which in fact were issued to the previous dealer and the said dealer did not handover the stock to the petitioner. She further asserted that the said deficiency is not on account of any misdeeds on her part, but it is only on account of stocks being not handed over by the previous dealer to her.

4. The 4th respondent, in the impugned order of suspension, except stating that though the explanation has been carefully examined by him, he was not convinced with the same, has not recorded any finding to the effect that he had made any enquiry or examined the records to verify whether the previous dealer had handed over Qntls. 3.72 Kgs of PDS rice and Qntls. 0.42 Kgs of sugar to her. In the absence of any finding with respect to the same, and since the only ground of suspension is the deficiency in stock, the suspension order cannot be sustained. In those circumstances, the argument of learned Government Pleader that this aspect of the matter is also enquired into during enquiry cannot be accepted.

5. Accordingly, the Writ Petition is allowed and the impugned proceedings, dated 25.05.2016, are set aside. However, liberty is given to the respondent authorities to complete the enquiry after following due process of law. It is needless to mention that on account of setting aside the impugned proceedings, the petitioner shall be entitled to distribute the essential commodities. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

CHALLA KODANDA RAM, J

JUNE 08, 2016

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Date: 08.06.2016

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