

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6532 of 2016

ORDER:-

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies appearing for the respondents.

The petitioner was appointed as Dealer of Fair Price Shop No.6 of TKM Puram Village, Vedurukuppam Mandal, Chittoor District, in the year 2002 and his authorization is valid up to 31.03.2016. While so, basing on a report dated 25.03.2015 of the 5th respondent that the petitioner was not supplying the essential commodities to the cardholders properly and committing irregularities in maintaining the fair price shop, by order dated 31.03.2015, the 4th respondent suspended the authorization of the petitioner pending enquiry. Thereafter, the petitioner submitted his explanation. Being dissatisfied with the same, the 4th respondent cancelled the authorization of the petitioner vide proceedings D.Dis.B/3173/2015, dated 06.06.2015. Challenging the same, the petitioner filed W.P.No.17052 of 2015 before this Court. On the ground that there is a provision for appeal, this Court disposed of the writ petition on 19.06.2015 giving liberty to the petitioner to file an appeal against the order of the 4th respondent. Pursuant to which, the petitioner preferred an appeal before the 3rd respondent. The appeal was dismissed by the 3rd respondent on 16.10.2015, while confirming the orders of the 4th respondent. Aggrieved thereby, the petitioner preferred a revision before the 2nd respondent. By an order, dated 20.01.2016, the 2nd

respondent dismissed the revision, while confirming the orders of the 3rd and 4th respondents. The same is questioned in this writ petition.

The grievance of the petitioner is that as the 2nd respondent posted the case for hearing on 30.01.2016 at 11.00 am at his Chamber at Chittoor, the petitioner went there along with his counsel, but on the same day, the D.S.O., Chittoor, informed the petitioner that the 2nd respondent went to Tirupati on official work and the petitioner was directed to attend the Office of the R.D.O. at Tirupati. The counsel, who is appearing before the revisional authority, refused to proceed to Tirupathi, as the distance between Chittoor and Tirupati is about 80 kms. and he has to attend other cases at Chittoor. Having no other alternative, the petitioner rushed to Tirupathi, attended the hearing and made a request for adjournment of the case on the ground that his advocate is not present. However, his request was not acceded to, and ultimately, he submitted that he was not involved in any irregularities. Thereafter, the 2nd respondent reserved the case and passed the impugned order without giving any opportunity of hearing.

Learned counsel for the petitioner mainly submits that without giving any opportunity of hearing, the 2nd respondent passed the impugned order, while confirming the orders of the 3rd and 4th respondents.

Per contra, learned Government Pleader for Civil Supplies submits that the hearing of the case has taken place at Chittoor, and having considered the submissions made by the petitioner, the 2nd respondent passed the impugned order. He further submitted that reasons are not required to be recorded by the

revisional authority, if it affirms the order passed at the original stage, and in support thereof, he relied on a decision of the Apex Court in ***S.N. Mukherjee Vs. Union of India***^[1].

A perusal of photostat copy of notice dated 23.01.2016 issued by the Collector's Office (CS), Chittoor, to the petitioner reveals that the case was posted for hearing before the District Collector, Chittoor, 2nd respondent, on 30.01.2016 at 11.00 am at the Collector's Chamber at Chittoor and the petitioner was directed to appear before the District Collector, Chittoor in person or through his counsel on the said date. Whereas, it is the case of the petitioner that after issuing the above notice, the venue of hearing was changed from Chittoor to Tirupati, and without hearing him, the impugned order was passed. The change of venue from Chittoor to Tirupati is not disputed by the Government Pleader. The 2nd respondent being the District Head, having fixed the hearing at Chittoor on 30.01.2016, for some reason or other he was unable to take up the hearing on that day. In normal circumstances, he ought to have adjourned the case for hearing by giving fresh date. It is an admitted fact that the petitioner was asked to be present at Tirupati which is situated at about 80 kms. from Chittoor. When a party, who is informed of change of venue at the last minute, may not have time/opportunity to reach the changed place of hearing. However, in the present case, the petitioner could reach Tirupati for hearing. The fact remains that he did not have the legal assistance, which, in normal circumstances, he could have availed at Chittoor. It is also a fact that the Advocate engaged by the petitioner appeared before the authorities at Chittoor on earlier occasions and had the venue not been changed from Chittoor to Tirupati, he would have attended

the hearing at Chittoor. I am also unable to accept the argument of the Government Pleader that the petitioner had made his submissions, and thereby, the formality of giving opportunity of hearing has been complied with. The petitioner being not so well versed with the procedure and legal intricacies had sought the assistance of the Advocate to present his case. On account of change of the venue of hearing, his advocate could not be present before the 2nd respondent at Tirupati, and thereby, he was deprived of putting forward his best case before the 2nd respondent. What all the impugned order reveals is that the petitioner made a submission to the effect that he had not committed any mistake and that false allegations were levelled against him. This submission is not in relation to the written pleadings and law on the issues which he has made explaining in detail both before the primary authority as well as the appellate authority. In that view of the matter, it cannot be said that an opportunity of hearing was given to the petitioner in real sense.

So far as the judgment of the Apex Court in ***S.N. Mukherjee case (1 supra)*** is concerned, the same has no application to the facts of the present case; as in the said case, the contention is that no reasons are contained in the impugned order, whereas the contention of the petitioner in the present case is that no meaningful opportunity of hearing was given to him, thus violating the principles of natural justice. The principal ground urged by the learned counsel for the petitioner is with regard to violation of the principles of natural justice, as the petitioner was informed at the last minute as to the change of venue and thereby he was deprived of the opportunity of hearing. In the above-mentioned circumstances, the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed and the order dated 20.01.2016 passed by the 2nd respondent is set aside. The 2nd respondent is directed to fix a date of hearing, communicate the same to the petitioner well in advance, and pass appropriate orders at the earliest, after giving an opportunity of hearing. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

CHALLA KODANDA RAM, J

18th March, 2016

Note: Furnish C.C. in three days.

(b/o) cbs

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cbs

[\[1\]](#) AIR 1990 SC 1984