

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No.17928 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.270/2016-C, dated 25.05.2016, suspending the authorization of the petitioner to run Fair Price Shop No.4, Daida Village, Gurazala Mandal, Guntur District, without proper consideration of the explanation submitted by him, as arbitrary and illegal and consequently to set aside the same.

Case of the petitioner is that he was appointed as dealer in respect of the aforesaid Fair Price Shop in the year 1993 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 stocks for the month of May, 2016, the 5th respondent refused for the same 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, he 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.

Suspension pending enquiry was made on account of alleged deficiency in the stocks i.e., Qntls. 15.98 Kgs of PDS rice, Qntls.0.65

Kgs of Sugar and 94 ltrs. of kerosene. Pursuant to the impugned proceedings dated 25.05.2016, the petitioner had submitted his explanation denying the allegations of shortage.

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. Further, no finding to the effect that he had made any enquiry or examined the records was recorded in the impugned order. In the absence of any such specific finding in the impugned order and only on the ground that there is deficiency in stock, the suspension order cannot be sustained. In those circumstances, the argument of learned Government Pleader that this aspect of the matter needs to be enquired into during enquiry cannot be accepted.

In that view of the matter, 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.

Accordingly, the Writ Petition is allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

CHALLA KODANDA RAM, J

8th June, 2016
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