

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 9369 of 2016

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader.

2. Petitioner's fair price shop licence has been cancelled by the impugned order dated 18.02.2016 on the ground of violation of Condition Nos.7(i), 17(a)(b)(c), 18(b), 22(iii), 22(v), 22(vi) and 22(viii) of the APSPDS (Control) order 2008 r/w Section 5 of the EC Act, 1955.. It is the case of the petitioner that alleging certain violations of the provisions of the control order, 6A proceedings were initiated, which culminated in passing of the final orders by the second respondent on 04.01.2016 whereunder the seized goods were confiscated. Thereafter, a show cause notice was issued to the petitioner on 07.01.2016 calling for explanation as to why the authorization of the petitioner shall not be cancelled for the alleged contravention. Though a detailed explanation was submitted by the petitioner on 18.01.2016, the final order was passed on 18.02.2016 without considering the explanation submitted by the petitioner.

3. Learned counsel for the petitioner contends that the very show cause notice itself is very vague there being no details of the alleged violations except mentioning conditions of the control order.

It is further contended that merely because 6A proceedings were initiated, that by itself cannot be a reason for cancellation of authorization as the same can be done only in violation of any of the conditions of the control order, which are required to be found

only after considering the explanation submitted by the petitioner, after issuance of the show cause notice, conducting enquiry, and passing a final order.

4. As can be seen from the material on record, this Court is in agreement with the submission made by the learned counsel for the petitioner as except mentioning the conditions of the control order, the impugned show cause notice is bereft of any specific allegations leveled against the petitioner as to how and in what manner the conditions are applicable. Only a reference is made to the order of the Collector considering the seizing of the stocks based on which a presumption was drawn that there was a contravention of authorized conditions. As a matter of fact, the third respondent had already come to a conclusion for the very show cause notice itself by recording as follows:

“In the appeal filed by the Fair Price Shop Delaer, the Collector (CS), Nizamabad vide his proceedings 3rd cited has passed orders for confiscation of 100% seized stocks in favour of the Government. As such the contravention of Authroization conditions is proved.”

5. In the facts of the present case, though an appellate remedy is very much available against the order dated 18.02.2016, the petitioner need not be relegated to file appeal as the very show cause notice and the impugned order is bereft of any reasoning apart from being in violation of the very procedure prescribed under the control order. Accordingly, the impugned order is set aside. However, liberty is given to the respondent authorities to issue show cause notice and conduct enquiry in accordance with law.

6. The Writ petition is accordingly allowed. Pending

miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

**JUSTICE CHALLA
KODANDA RAM**

March 22, 2016
LMV