

THE HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.24288 of 2010

ORDER:

Heard Mr. K. Srinivas for petitioner and learned Assistant Government Pleader for respondents.

2. The petitioner challenges the proceedings No.B/2784/2010 dated 23.09.2010 as illegal, arbitrary and violative of principles of natural justice.

The impugned proceedings reads as follows:

"Due to the discrepancy, the stocks were seized and panchanama also conducted on the next day i.e., 07-09-2010 and the seized stocks are handed over the concerned V.R.O under proper acknowledgement for safe custody. The villagers also stated that the dealer is selling the sugar on higher price i.e., Rs.7-00 per ½ kg instead of RS.6.75, the statement also recorded the some card holders, and the following allegations are made by the villagers against the FP shop dealer is correct.

1. Not residing in the village and running Kirana shop at Siddipet.
2. Not maintaining the timings prescribed by the Govt.
3. Selling of Sugar on higher price (0.25 paise excess).
4. Misbehaviour with the card holders.
5. Less weighment.
6. Signature of the card holders are not obtained properly in distribution register.
7. Stock register not up to dated till to-day.
8. Selling of un-authorized and quality less commodities to the card holders forcibly.

Further the Tahsildar, Siddipet has reported that after conducting thorough enquiry and examining the report it is concluded that Smt. J. Bharathi FPS dealer Narsapur is committed irregularities in distributing the Essential Commodities and contravened the conditions of A.P.P.D.S. Control Order 2001 and the conditions of Authorization.

In view of the above, Smt J. Bharathi, FPS dealer shop No.1 Narsapur village is hereby suspended from the dealership of Fair Price Shop No.1 of Narsapur Village of Siddipet Mandal, while cancelling his authorization of fair price shop dealer with immediate effect."

3. The grievance of petitioner is that the impugned proceedings cannot be treated as one intending to keep the authorization in suspension pending enquiry but cancels the authorization and the proceedings are issued without notice and opportunity to petitioner.

4. On 29.09.2010, the following interim order was passed by this Court:

“Notice to respondents.

Ordinarily, this Court does not entertain a writ petition filed questioning the orders of suspension/cancellation of fair price shop authorizations unless the aggrieved party exhausts the alternative remedy. But, in this case, *prima facie*, the impugned order by which the petitioner's authorization is purported to have been suspended/cancelled, is not preceded by any notice to the petitioner. As this action appears to be in patent violation of the principles of natural justice, the impugned order dated 23.09.2010 is suspended pending further orders.

Post on 27.10.2010.”

The interim order is subsisting as on date.

5. With the assistance of learned counsel for petitioner, the impugned proceeding is carefully read and I am of the view that the contention of the petitioner that the impugned proceeding virtually cancels the authorization is not correct. No doubt the expression creates little doubt at the first look. It is axiomatic that expression is not uniform. The Court will have to appreciate the totality circumstances and the purpose, which is sought to be achieved through the impugned proceedings. Considered from the above perspective, this Court is of the view that the impugned proceedings is one in the nature of suspension pending enquiry into the alleged charges against the petitioner and the Revenue Divisional Officer, Siddipet, being the competent authority, can certainly take action as the circumstances warrant.

6. Having regard to the nature of disposal, I am not referring to the stand taken by the respondents in the counter affidavit.

I am satisfied the writ petition can be disposed of by this order.

1. The interim order dated 29.09.2010 is directed to be continued for a period of three (3) months from the date of receipt of a copy of this order.
2. Petitioner is given four (4) weeks time from today to submit explanation to the charges levelled against the petitioner in the impugned proceedings.
3. The first respondent/RDO is directed to conduct enquiry as prescribed in accordance with clause 5(5) of the A.P. State Public Distribution System Control Order, 2008 and shall positively pass orders within two (2) months thereafter.

The writ petition is disposed of as indicated above. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S.V. BHATT, J

July 4, 2016
DSK