

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.19991 of 2016

ORDER

This writ petition is filed seeking to declare the proceedings dated 4.12.2015 issued by the 2nd respondent suspending the authorization of the petitioner for fair shop No.13 of Kavali Town and Mandal, SPSR Nellore District, as arbitrary and illegal.

Petitioner is the permanent authorized fair price shop dealer and his authorization was renewed from time to time. While so, on 27.11.2015, Civil Supplies Deputy Tahsildar, kavali inspected the fair price shop of the petitioner and seized the stocks on the allegation that there is variation of stocks i.e., 1070 kgs of rice,

3 kgs of sugar and 4 liters of kerosene from book balance to ground balance. Based on the report submitted by the Civil Supplies Deputy Tahsildar, the 2nd respondent *vide* proceedings dated 4.12.2015 suspended the authorization of the petitioner and issued show cause notice to the latter, who in turn, submitted his explanation on 12.2.2016. Except the said variation, there is no other allegation in the order impugned.

In normal circumstances, in terms of the Circular

issued by the Commissioner, suspension pending enquiry cannot be more than a maximum period of 90 days. This Court had taken note of the same in catena of decisions and more particularly, the recent one viz., *Joint Collector, Kurnool and others vs. A.Neelima* ^[1], wherein it is held that though 90 days period specified as maximum is always possible in a given set of facts, the enquiry could not be completed within said 90 days in view of the peculiar facts of the case.

In the present case, except the allegation of variation of stocks, there are no compelling circumstances preventing the second respondent to conduct enquiry and complete the same within the maximum time stipulated by the Commissioner. In other words, the second respondent has grossly violated the circulars issued by the Commissioner as well as the law laid down by Division Bench of this Court in *Joint Collector, Kurnool and others vs. A.Neelima* (1 *supra*). Further, this Court by an order dated 15.2.2016 in W.P.No.4751 of 2016 had dealt with elaborately about the subject matter.

In those circumstances, the learned Government Pleader submits that the enquiry is in final stage, but, however, if a direction is given to the 2nd respondent to complete the same within the time bound manner, the same would be adhered to and there is no

requirement of suspending the authorization pending enquiry. This Court is not inclined to adhere to such a statement as that would be allowing the 2nd respondent to continue to violate the orders of the superior Commissioner as well as the law laid down by this Court.

In view of the same, impugned suspension order dated 4.12.2015 is set aside and the petitioner is entitled to distribute the essential commodities till final orders are passed by the 2nd respondent one way or the other.

Subject to the above, the Writ Petition is disposed of.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE CHALLA KODANDA RAM

28th June, 2016
rkk

[\[1\]](#) 1996 (1) APLJ 285