

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM
WRIT PETITION No.17295 OF 2016

ORDER:

The case of the petitioner, as per affidavit averments of the petitioner, is that he was appointed as permanent Fair Price Shop dealer in respect of F.P. Shop No.13 of Nikarampalli Village, Markapuram Mandal, Prakasam District. While so, on 25.05.2016, the 3rd respondent issued proceedings canceling the authorization of the petitioner basing on the report of the Food Inspector alleging that during inspection on 05.05.2016 there was shortage of 103.5 kgs. of rice and excess of 6 ltrs. of kerosene oil. As against the same, petitioner filed an appeal before the 2nd respondent along with a stay application on 28.05.2016. Since the 2nd respondent was not passing orders either in appeal or in stay petition, petitioner filed the present writ petition.

It is the specific submission of the learned counsel for the petitioner that passing of cancellation proceedings itself is bad since no enquiry was conducted. He submitted that the show cause notice was issued on 09.05.2016 to which the petitioner has submitted his explanation on 16.05.2016 and within ten days therefrom the order of cancellation was passed without conducting any enquiry. Learned counsel for the petitioner also submitted that the 2nd respondent, who is appellate authority, is not taking up the appeal filed by the petitioner or atleast the stay petition. In support of his submission, learned counsel for the petitioner relied on a judgment of this Court in

Anab-E-Shahi Wines and another vs. Deputy Commissioner^[1] wherein this Court had taken a view that it would be unreasonable if stay is not granted when the appeal is pending before the lower authorities.

On the other hand, learned Government Pleader for Civil Supplies opposes the writ petition and submits that there cannot be two parallel proceedings and the writ petition is liable to be dismissed on the ground that the petitioner had already availed the alternative remedy of appeal. Learned Government Pleader also submits that factual aspects can be considered only by the appellate authority.

Having considered the rival submissions and considering the fact that the petitioner had already availed the alternative remedy of appeal, interest of justice would be served if a direction is issued to the second respondent to dispose of the appeal in a time bound manner. Inasmuch as the petitioner has already filed the appeal on 28.05.2016, the second respondent shall dispose of the appeal as expeditiously as possible within a period of six weeks from the date of receipt of a copy of this order. Further, as the right of appeal being a statutory right and in view of the judgment of this Court in **Anab-E-Shahi Wines** case (1 supra), the order of the 3rd respondent-The Revenue Divisional Officer, Markapuram, Prakasam District, is stayed pending disposal of appeal or stay petition whichever is earlier by the 2nd respondent.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

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

Justice Challa Kodanda Ram

3rd June, 2016.
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[\[1\]](#) (1995) 98 STC 386 (AP)