

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.30934 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the third respondent in suspending the authorization of the petitioner as fair price shop dealer, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies (Andhra Pradesh).

3. A perusal of the record reveals that the petitioner was appointed as Fair Price Shop Dealer in respect of Shop No.12 of Mulagapudi Village, Rowthulapudi Mandal, East Godavari District long back. It is the case of the petitioner that he has been distributing the essential commodities to the cardholders without any complaint whatsoever. While so, on 02.09.2016, the Deputy Tahsildar, Civil Supplies, Rowthulapudi inspected the fair price shop of the petitioner and found variation in the stock. Basing on the report submitted by the Deputy Tahsildar, the third respondent suspended the authorization of the petitioner vide Proceedings No.Ref.A/828/2016, dated 06.09.2016 in respect of Fair Price Shop No.12 till completion of the enquiry.

4. It is the case of the respondents that the petitioner has contravened Clause 17(A), (B) and (C) of A.P. State Public Distribution System (Control) Order, 2008.

5. The contention of the learned counsel for the petitioner is that the variation in the stock is very marginal and the third respondent

ought not to have suspended the authorization of the petitioner pending enquiry.

6. It is a settled principle of law that this Court, while exercising jurisdiction under Article 226 of the Constitution of India shall not lightly interfere with the order of suspension passed by a quasi judicial authority. However, this Court can set aside the order of suspension passed by the quasi judicial authority if the same is ex facie illegal or passed without jurisdiction.

7. As per the provisions of the Essential Commodities Act and the Control Order 2008, the Revenue Divisional Officer / the Sub-Collector, as the case may be, is the appointing authority. As per Clause 5 of the Control Order, the Revenue Divisional Officer is empowered to suspend the authorization of a fair price shop dealer if the dealer commits any irregularity or contravenes the provisions of the Control Order.

8. It is the case of the respondent No.3 that the petitioner has contravened the provisions of the Control Order, 2008. Whether there is any variation in the stock, as pleaded by the respondent No.3 is purely a disputed question of fact, which cannot be gone into by this Court, while exercising jurisdiction under Article 226 of the Constitution of India.

9. It is not the case of the petitioner that the respondent No.3 is not competent to suspend the authorization pending enquiry.

10. As rightly pointed out by the learned Assistant Government Pleader, any order of suspension passed by the appointing authority is appealable one in view of Clause 20 of the Control Order. For one

reason or the other, the petitioner, without exhausting the alternative remedy of appeal, has, directly approached this Court invoking the extra ordinary jurisdiction. This Court shall not lost sight of this aspect also.

11. However, from a perusal of the material available on record, this Court is of the considered view that the order passed by the Revenue Divisional Officer is not ex facie illegal, warranting interference of this Court.

12. At the time of arguments, the learned counsel for the petitioner submitted that the third respondent may be directed to dispose of the enquiry pending against the petitioner as expeditiously as possible. The learned Assistant Government Pleader for the respondents also consented for the same.

13. Having regard to the facts and circumstances of the case and also the submissions made by learned counsel for both parties, the third respondent is hereby directed to dispose of the enquiry pending against the petitioner, after affording a reasonable opportunity to him to put forth his stand, as expeditiously as possible, preferably within a period of two (2) months from the date of receipt of a copy of this order.

14. With the above direction, the Writ Petition is disposed of. No costs.

15. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 14.09.2016
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