

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5116 OF 2016

ORDER:

The writ petition is filed challenging the order dated 23.01.2016, passed by the 3rd respondent-R.D.O canceling the petitioner's authorisation of fair price shop No.15 of Vutukuru Village, Krosur Mandal, Guntur District.

Earlier the petitioner had filed a Writ Petition No.3288 of 2015 before this Court complaining that he is not being allotted the essential commodities for distribution to the cardholders though his authorization was neither suspended nor cancelled. The said writ petition was allowed by an order dated 12.10.2015 directing the 3rd respondent to supply the essential commodities to the petitioner. Thereafter a notice dated 11.12.2015 was issued directing the petitioner to appear before the 3rd respondent on 22.12.2015 for personal enquiry. The 3rd respondent passed the impugned order on 23.1.2016 canceling the authorization of the petitioner.

The order dated 23.01.2016 is questioned on the ground that the petitioner was not issued with any show-cause notice specifying the allegations to which he is required to meet. In that view of the matter, the very enquiry conducted itself is a defective and hence the same is liable to be set aside.

Earlier when the matter came up for admission, the learned Government Pleader was directed to get the instruction as to whether any show cause notice was issued to the petitioner. Today, on instructions, the learned Government Pleader submits that except issuing show cause notice, the other formalities with regard to conducting of enquiry were followed. He further submits that the order of Revenue Divisional Officer may not be interfered with as there is a provision of appeal provided against the order of the R.D.O to the Joint Collector.

Having considered the rival submissions, the impugned order is liable to be set aside as there is a fundamental defect in the order impugned and the very procedure adapted by the 3rd respondent, the petitioner is entitled to know what are the charges which the petitioner is required to meet which would enable him to submit his explanation meeting all the allegations. If there is material gathered behind back of the petitioner, the same is also

required to be put to the petitioner so that he would have ample opportunity to rebut the same and meet those allegations. In the absence of a show cause notice though an opportunity of hearing is given the petitioner is totally under darkness with regard to what kind of allegations which the petitioner is required to meet. In that view of the matter, the very opportunity of hearing which is given to the petitioner merely to follow the rule mandating the giving of opportunity of hearing cannot be said to be an effective opportunity. As there is no show cause notice given and the same goes to the root of the matter, the impugned order deserves to be set aside.

Accordingly, the writ petition is allowed setting aside the order dated 23.01.2016 passed by the 2nd respondent and the order of setting aside shall not construe as denial of the right of the respondents authorities to issue notice calling for explanation from the petitioner and thereafter to conduct the enquiry with respect to the allegations if any. No order as to costs.

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

CHALLA KODANDA RAM,J

Date:19.02.2016.

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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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