THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT APPEAL No.746 OF 2016

JUDGMENT: **(Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)**

Heard Sri V. Sudhakar Reddy, learned counsel for the appellant-writ petitioner and the learned Government Pleader for Civil Supplies.

Questioning the proceedings dated 4.7.2016 issued by the Revenue Divisional Officer, Srikakulam, the appellant-writ petitioner filed Writ Petition No. 24429 of 2016 which was disposed of by the learned Single Judge on 26.7.2016 directing the Revenue Divisional Officer to pass final orders as expeditiously as possible, preferably, within a period of one month. The learned Judge made it clear that, if the 3rd respondent failed to pass appropriate orders within one month from the date of receipt of the order, the writ petitioner was at liberty to avail the remedies available to her under law.

Sri V.Sudhakar Reddy, learned counsel for the appellant, submits that the order, impugned in the writ petition, is one which imposes punishment under Clause 5(5) of the Andhra Pradesh State Public Distribution System Control Order, 2008 (for short 'the Control Order'), and failure on the part of the 3rd respondent, to fix the period during which the punishment of suspension is to remain in force, would, in effect, amount to continuing the order of suspension indefinitely, which can only mean that the licence of the appellant, as a fair price shop dealer, has been cancelled. Learned counsel would submit that such an order of suspension is impermissible in law.

Learned Government Pleader for Civil Supplies would however contend, placing reliance on the words "further orders" in the subject of proceedings dated 4.7.2016, that suspension of the appellant is pending enquiry, and the learned Single Judge had rightly held that, as the impugned order is an order placing the fair price shop dealer under suspension pending enquiry, the enquiry should be completed early.

The words "further orders", in the subject cited in the impugned proceedings dated 4.7.2016, must be read in its entirety. It refers to the irregularities in the distribution of essential commodities by the fair price shop dealer, the show cause notice issued, the explanation submitted and the further orders which were requested. The words "further orders" in the subject cited can only mean orders to be passed in furtherance of the show cause notice issued earlier and the explanation submitted by the fair price shop dealer thereto. It does not appear to be an order of suspension pending enquiry. As this Court would not examine the validity of the impugned order, on its merits, in proceedings under Article 226 of the Constitution of India, we see no reason to consider whether the impugned order of punishment, based on the facts as noted by the Revenue Divisional Officer, was justified or not. The only question which we are required to examine is whether an order of suspension, for an indefinite period, could have been passed as a measure of punishment as that would amount to cancellation which is also one of the punishments prescribed in Clause 5(5) of the Control Order, but which the 3rd respondent has chosen not to pass.

While we are satisfied that the 3rd respondent ought to have fixed the period of suspension, it would be wholly inappropriate for us, in proceedings under Article 226 of the Constitution of India, to do so. In such circumstances, we consider it appropriate to set aside the order of the 3rd respondent, and direct him to fix the period during which the order of suspension shall remain in force. The 3rd respondent shall pass an order, in accordance with the directions aforementioned, within two weeks from the date of receipt of a copy of this order.

The writ appeal is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

23rd August 2016

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Date: 23.08.2016

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