

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CONTEMPT CASE No.2364 OF 2015

ORDER :

This Contempt Case is filed alleging willful disobedience of the order dt.25.11.2015 passed by this Court in WP.MP.No.49368 of 2015 in W.P.No.38358 of 2015.

2. Petitioner is a Fair Price Shop Dealer and his license was cancelled by proceedings Rc.No.B/664/2015, by the 1st respondent herein on 12.11.2015. Petitioner assailed the same in W.P.No.38358 of 2015.

3. On 25.11.2015 in W.P.MP.No.49368 of 2015, this Court suspended the said order and also directed the respondents to permit the petitioner to distribute the essential commodities to the cardholders of the said Fair Price Shop.

4. The said order was passed in the presence of the learned Government Pleader for Civil Supplies and a copy of the order was also handed over by the petitioner to the 2nd respondent on 30.11.2015 and receipt of the same was acknowledged by the 2nd respondent.

5. While so, on 01.12.2015, the next day, the petitioner was directed by the 2nd respondent to handover the e-Pos machine to the Civil Supplies Deputy Tahsildar, Puttaparthi along with the weighing machine.

6. Left with no option, petitioner handed over the e-Pos machine and weighing machine to the Civil Supplies Deputy Tahsildar, Puttaparthi. On 23.12.2015, the 2nd respondent returned the e-Pos machine and weighing machine to the petitioner.

7. Counsel for the petitioner contends that notwithstanding the fact that this Court passed the order on 25.11.2015 directing the respondents to permit the petitioner to distribute essential commodities to card holders attached to his Fair Price Shop, and in spite of the communication of the said order to the 2nd respondent on 30.11.2015, the respondents have not delivered essential commodities, other than kerosene, to the petitioner for supplying to the cardholders. He further contends that the action of the respondents in taking away the e-Pos machine and weighing machine on 01.12.2015 in spite of having knowledge of the Court order on 30.11.2015 clearly amounts to willful disobedience of the order passed by this Court.

8. Counter-affidavit was filed by the 1st respondent stating that he issued proceedings vide Rc.No.B/664/2015, dt.02.12.2015 directing the 2nd respondent to implement the Court order and the 2nd respondent issued allotment order allotting Kerosene oil for the month of December, 2015 to the petitioner; and he had also supplied essential commodities to the petitioner from the month of January, 2016; therefore, there is no violation of the order dt.25.11.2015 passed by this Court, and that the said order has been complied with.

9. An additional counter affidavit was also filed by the 1st respondent reiterating the same. He further contended that after the petitioner's Fair Price Shop Dealership authorization was cancelled on 12.11.2015, cards of the petitioner's Fair Price Shop were attached to an adjacent Fair Price shop Dealer as additional charge; that as per the procedure invoked, every dealer has to remit Demand Draft on or before 18th of every month for supply of essential commodities for the succeeding month and as regards Kerosene oil, dealer has to remit Demand Draft in the same month; and since the in-charge dealer had already remitted the Demand Draft in November-2015, release order for supply of essential commodities for the month of December, 2015

was issued on 23.11.2015 and stocks of essential commodities were supplied to the in-charge dealer on 24.11.2015, itself except Kerosene Oil. It is further stated that as the name of the in-charge dealer was uploaded in e-Pos machine under Supply Chain Management under Public Distribution System, the in-charge dealer had distributed the essential commodities for the month of December, 2015 after obtaining the said e-Pos machine from the petitioner on 01.12.2015, to utilize the same for distribution of essential commodities. It is further stated that the said e-Pos machine was subsequently handed over to the petitioner on 23.12.2015 to enable him to distribute Kerosene oil for the month of December, 2015; and that the essential commodities for the month of January, 2016 were distributed by the petitioner himself to the cardholders attached to his Fair Price Shop.

10. The Government Pleader for Civil Supplies also reiterated the said submission and contended that since the in-charge dealer had already remitted the amount payable towards supply of essential commodities for the month of December, 2015 before 18.11.2015, and the essential commodities had already been released to him, it was not possible to permit the petitioner to distribute the essential commodities for the month of December, 2015 except Kerosene oil. She therefore contended that there is no willful disobedience of the order passed by this Court and that the respondents had complied with the said order by allowing the petitioner to distribute Kerosene oil for the month of December, 2015 and other essential commodities from January, 2016. She also contended that the action of the respondents in taking away the e-Pos machine and weighing machine on 01.12.2015 is proper, stating that the name of the in-charge dealer was already uploaded in the machine by that date and therefore the said machine was handed over to the in-charge dealer to enable him to distribute the essential commodities for the month of December, 2015.

11. I have noted the above submissions of either side.

12. From the facts narrated above, it is clear that this Court passed interim order on 25.11.2015 suspending the order dt.12.11.2015 canceling the petitioner's Fair Price Shop Dealership authorization and this order was passed in the presence of the Government Pleader for Civil Supplies, who represents both the respondents.

13. It is settled law that if an order is passed in the presence of a counsel, party is presumed to know about it and cannot be allowed to take a plea that he had no knowledge of it, till it is communicated.

14. Be that as it may, on 30.11.2015 copy of the order was physically handed over by the petitioner to the 2nd respondent which was also acknowledged by the 2nd respondent.

15. Therefore, the 2nd respondent cannot plead any ignorance about the order passed by the Court on 25.11.2015 directing him and 1st respondent to permit the petitioner to distribute essential commodities for the month of December, 2015.

16. Yet, the 2nd respondent on 01.12.2015 with full knowledge about the order dt.25.11.2015 passed by this Court, copy of which is received by him on 30.11.2015, took away e-Pos machine and weighing machine from the petitioner.

17. The excuse given by the respondents that as per the procedure invoked, since the in-charge dealer had paid the amount by way of Demand Draft by 18.11.2015, essential commodities were already released to him, cannot be accepted because nothing prevented the respondents from returning the Demand Draft given by the in-charge dealer and taking back the essential commodities which have been supplied to the in-charge dealer on 24.11.2015 as soon as they were made aware of the order dt.25.11.2015 passed by this Court, since there was an intervening gap of at least six days between the passing

of the interim order by this Court on 25.11.2015 and 01.12.2015 on which date the in-charge dealer would commence distribution of essential commodities which he had obtained from the respondents. Nothing has been done by the respondents in this regard.

18. It is not as if what the respondents had done before 25.11.2015 was irreversible or impossible of reversal in any way. Even if the name of the in-charge dealer had been uploaded in the e-Pos machine before 25.11.2015, the same could have been changed/removed immediately by the respondents on coming to know about the orders passed by this Court on 25.11.2015. But, they have not moved their little finger in this regard. So, the respondents cannot be allowed to disregard the orders passed by the Court blatantly like they have done and blame the procedure involved for not implementing the Court order.

19. Merely because, the respondents had delivered Kerosene oil to the petitioner for distributing the same in December 2015, it would not absolve them of the obligation to comply with the direction of this Court on 25.11.2015 to permit the petitioner to distribute the other essential commodities also.

20. Since no valid reason is forthcoming from the respondents in support of their action, this Court is left with no option to conclude that the respondents have willfully disobeyed the orders dt.25.11.2015 passed by this Court in W.P.MP.No.49368 of 2015 in WP.NO.38385 of 2015.

21. Therefore, the Contempt Case is allowed and both the respondents are sentenced to pay a fine of Rs.1,500/- each within three (03) weeks from today and they are warned not to willfully disregard the orders passed by this Court in future.

22. Consequently, miscellaneous petitions pending, if any, shall

stand dismissed.

M.S.RAMACHANDRA RAO, J

23rd February, 2016.
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