

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 20672 of 2016

DATED 14TH JULY, 2016

BETWEEN

Badavath Vasatha Rao

....Petitioner

And

The State of Telangana,
Rep. by its Principal Secretary,
Civil Supplies Department, Secretariat, Hyderabad and ors.

..Respondents.

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 20672 of 2016

ORDER:

Challenging cancellation of Fair Price Shop authorization of the petitioner by the third respondent through proceedings dated 23.5.2016 the present Writ Petition is filed.

One of the principal grounds raised by the petitioner in the present Writ Petition is that based on the 6-A proceedings, resulting confiscation of goods, a show cause notice was issued by the Revenue Divisional Officer-third respondent on 4.5.2016 calling for explanation and to appear for enquiry on 9.5.2016.

Even in the very show cause notice, the third respondent had already pre determined and came to the conclusion that as a result of confiscation ordered by the second respondent-Collector, contravention of conditions of authorization by the petitioner is proved. He further submits that issuance of show cause and consideration of the alleged explanation is only to make believe and an eye wash.

Heard learned Counsel for the petitioner and learned Government Pleader for Civil Supplies appearing for the respondents.

The learned Government Pleader submits that against the order of cancellation of authorization, an efficacious alternative remedy of appeal is available to the petitioner.

In the case on hand, three charges are levelled against the petitioner, which read as under:

“ Charge 1: The dealer Sri Badavath Vasanth Rao Rao, FP Shop Dealer, FPS No.33 of Gannaram (V) Dichpally (M) has made a false entry in the DKR, thereby contravened Cl.17(a),(b) & (C) of the AP Public Distribution System (Control) Order, 2008.

Charge-II: The dealer Sri Badavath Vasanth Rao , FP Shop Dealer, FPS No.33 of Gannaram (V) Dichpally (M) has not furnishing particulars of stocks/dealings, there by contravened Cl.18(b) of the A.P.Public Distribution System (Control) Order, 2008.

Charge-III: The dealer Sri Badavath Vasanth Rao Rao, FP Shop Dealer, FPS No.33 of Gannaram (V) Dichpally (M) has not maintained distribution register, stock Register, correct record, thereby contravened

Cl.22(viii) of the AP Public Distribution System (Control) Order, 2008.”

A perusal of the aforesaid three charges shows that only AN allegation of non maintenance of records properly is alleged against the petitioner. On the same charges, in the 6-A proceedings, the Joint Collector passed an order on 11.4.2016. Paragraph 5 of the said order reads as under:

“5. Thus, the complainant reason to believe that the respondent is not maintaining correct accounts in the fair price shop properly and doing illegal business by diverting the stock into the black market. It is also evident that he is habituated for hoarding and diverting the essential commodities supplied under PDS with highly subsidized to meant for poor people and thereby contravened the provisions i.e. Clause 17(a) (b)(c), 17(A), 18(b), 22(v)(viii) of the AP State PDS Control Order, 2008”

In Para 10 of the same order, it was ordered as under:

“ Therefore, I order for confiscation of 100% value of seized stock in favour of the Government for contravention of Clause 17 (a)(b)(c), 17 (A), 18(b), 22(v) (viii) of the AP State PDS (Control) Order, 2008”

A reading of the above quoted paragraphs leaves no manner of doubt that the charges sought to be enquired into by the third respondent and the charges on account of which an enquiry was conducted by the Joint Collector resulting confiscation are identical and, one and the same. In other words, the petitioner had already been taken to task for the alleged violations. In those circumstances, the impugned order

dated 23.05.2016 of the third respondent if allowed to be continued results imposition of double punishment on the petitioner and as such, the same is liable to be set aside and accordingly set aside.

The Writ Petition is allowed. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE CHALLA KODANDA RAM

DATED 14th JULY, 2016.

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