

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.5533 of 2016

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Between:

Challgundal Venkata Subba Rao

PETITIONER

AND

1. The State of Andhra Pradesh, rep. by its Principal Secretary,
Civil Supplies Department, Secretariat, Hyderabad, and others.

RESPONDENTS

ORDER:

The case of the petitioner is that he was appointed as fair price shop dealer for Shop No.1 of Jangalapalli Village, Jujendla Mandal, Guntur District in the year 2012 on permanent basis. While so, on 08.12.2015 the Assistant Supply Officer and others have inspected the shop of the petitioner and seized the stock on the ground that there is variation in the stock, and submitted a report before the 2nd respondent. Basing on the said report, the 2nd respondent issued show cause notice dated 07.01.2016 to the petitioner framing two charges. The petitioner submitted explanation on 30.01.2016 specifically denying the charges. However, the 2nd respondent issued the impugned proceedings dated 04.02.2016 suspending the authorization of the petitioner pending enquiry. Challenging the same, the petitioner filed the present writ petition.

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

Relying on the decision of this Court in ***D.Sambasiva Rao Vs. Joint Collector, Guntur***^[1], which was subsequently followed by this Court in ***M.Venkata Ramaiah Vs. Joint Collector (CS), Ananthapur District***^[2], the learned Counsel for the petitioner submits that the maximum period of suspension of the authorization of a dealer can not be for a period of exceeding ninety days.

On the other hand, learned Government Pleader for Civil Supplies places reliance on the judgment of this Court in ***Joint Collector, Kurnool vs. A. Neelima***^[3] wherein this Court took a different view opining that there is no hard and fast rule that the suspension pending enquiry cannot be beyond a period of maximum

of 90 days. It was also held that the order of suspension cannot be used as a pretext for-indefinite postponement of the operation of fair price shop dealership making it in effect cancellation of the dealership. Such an order of suspension, like every executive and administrative act, has to be founded upon fair play and lack of arbitrariness. In that view of the matter, continuation of order of suspension indefinitely is whole arbitrary and cannot be allowed. However, what is reasonable period of suspension will vary from case to case depending upon various factors, though more often than not, a period of 90 days should ordinarily be sufficient to conclude the enquiry. The above Division Bench judgment in **Joint Collector, Kurnool** (3 supra) was referred to by the learned single Judge of this Court in **D. Sambasiva Rao's case** (1 supra). In the judgment in **M. Venkata Ramaiah's case** (2 supra) the judgment in **D. Sambasiva Rao** (1 supra) case was referred. However, the views expressed in **D. Sambasiva Rao's case** (1 supra), and **M. Venkata Ramaiah's case** (2 supra) are contrary to the views expressed by the Division Bench of this Court in **Joint Collector, Kurnool** (3 supra).

The material on record discloses that the petitioner had already submitted his detailed explanation denying the charges levelled against him. In view of the same, the petitioner is given liberty to avail the alternative remedy of appeal against the order of the Revenue Divisional Officer within a period of 10 days from the date of receipt of a copy of this order. As and when such an appeal is filed, the same shall be disposed of within a period of six weeks from the date of filing of the appeal by duly following the principles of natural justice and affording an opportunity of hearing to the petitioner.

Subject to the above, the Writ Petition is disposed of at the admission stage. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

CHALLA KODANDA RAM, J.

22nd February, 2016
Js.

[\[1\]](#) 2007(6)ALT 239
[\[2\]](#) 2014 (4) ALT 542
[\[3\]](#) APLJ-1996-1-285