

THE HON' BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.31251 of 2016

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the second respondent in passing the impugned order dated 16.07.2016, suspending the authorization of the petitioner, as illegal and arbitrary.

2. Heard Sri K.Krishna Mohan, the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies(Andhra Pradesh) representing the respondents 1 to 3.

3. A perusal of the record reveals that on 15.10.2011 the petitioner was appointed as fair price shop dealer of Shop No.21 of Pittalavaripalem village and Mandal, Guntur District. It is the case of the petitioner that she has been distributing the essential commodities to the cardholders without any complaint whatsoever. While so, on 06.07.2016 the Vigilance and Enforcement Officials along with revenue officials visited the shop of the petitioner and found variation in the stock. On 16.07.2016 the second respondent issued a show cause notice to the petitioner calling for his explanation. On the same day itself, the second respondent suspended the authorization of the petitioner in respect of Fair Price Shop No.21.

4. It is the contention of the petitioner that she has not contravened the provisions of the control orders. Per contra, the learned Assistant Government Pleader submitted that a perusal of

the record *prima facie* reveals that the petitioner has contravened the clauses of the Control Order, 2008. The fact remains that during pendency of the enquiry, the second respondent suspended the authorization of the petitioner.

5. It is a settled principle of law that this Court, while exercising jurisdiction under Article 226 of the Constitution of India shall not lightly interfere with the order of suspension passed by a quasi judicial authority. However, this Court can set aside the order of suspension passed by the quasi judicial authority if the same is *ex facie* illegal or passed without jurisdiction.

6. As per the provisions of the Essential Commodities Act and the Control Order 2008, the Revenue Divisional Officer / the Sub-Collector, as the case may be, is the appointing authority. As per Clause 5 of the Control Order, the Revenue Divisional Officer is empowered to suspend the authorization of a fair price shop dealer if the dealer commits any irregularity or contravenes the provisions of the Control Order.

7. It is the case of the second respondent that the petitioner has contravened the provisions of the Control Order, 2008. Whether there is any variation in the stock, as pleaded by the second respondent is purely a disputed question of fact, which cannot be gone into by this Court, while exercising jurisdiction under Article 226 of the Constitution of India.

8. It is not the case of the petitioner that the second respondent is not competent to suspend the authorization pending enquiry.

9. As rightly pointed out by the learned Assistant Government Pleader, any order of suspension passed by the appointing authority is appealable one in view of Clause 20 of the Control Order. For one reason or the other, the petitioner, without exhausting the alternative remedy of appeal, has, directly approached this Court invoking the extra ordinary jurisdiction. This Court shall not lost sight of this aspect also.

10. However, from a perusal of the material available on record, this Court is of the considered view that the order passed by the Revenue Divisional Officer is not *ex facie* illegal, warranting interference of this Court.

11. Having regard to the facts and circumstances of the case and also the submissions made by both the counsel, this Writ Petition is disposed of directing the second respondent to dispose of the enquiry initiated against the petitioner as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order in accordance with law. No order as to costs. As a sequel, the miscellaneous petitions, pending if any in this writ petition, shall stand closed.

T. SUNIL CHOWDARY, J

September 16, 2016.
Rns

