

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 41234 of 2015

DATED 18TH FEBRUARY, 2016

BETWEEN

P.Srinivasa Rao

..Petitioner

And

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Food and Civil Supplies (CS.1)Department,
Secretariat, Hyderabad and ors.

...Respondents.

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 41234 of 2015

ORDER:

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The petitioner was appointed as Fair Price Shop Dealer for Shop No. 33 of Thanebanda road, Chittoor Mandal and District on permanent basis. While so, on 26.2.2015, the Deputy Tahsildar along with the Assistant Revenue Inspector inspected the Fair Price Shop of the petitioner and noticed certain variations in the stocks. Based on the report submitted by the Tahsidlar, the third respondent issued show cause notice on 28.4.2015, to which the petitioner submitted his explanation. Dissatisfied with the same, the third respondent through orders dated 5.3.2015 suspended the authorization of the petitioner. Aggrieved by the same, the petitioner preferred an appeal to the

second respondent, who by order dated 10.4.2015 directed the third respondent to complete the enquiry within four weeks and pass final orders. The grievance of the petitioner is that despite the orders of the appellate authority-second respondent, the third respondent has not passed the final orders even after lapse of nine months.

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 Social Welfare places reliance on the judgment of this Court and this Court in the case of ***Joint Collector, Kurnool vs. A. Neelima***^[3] took a different view and opined that there is no hard and fast rule that the suspension pending enquiry cannot be beyond a period of maximum of 90 days and the opinion of the Division Bench that the order of suspension cannot be used as a pretext for-indefinite postponement of the operation of the 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, the continuation of order of suspension indefinitely would be only arbitrary and could not 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. In fact, the Division Bench referred to the case of **Joint Collector, Kurnool** (3 supra), which was relied upon by the learned single Judge of this Court in a judgment reported in **D. Sambasiva Rao's case** (1 supra). The judgment reported in **M. Venkata Ramaiah's case** (2 supra) had relied on in the case of **D. Sambasiva Rao** (1 supra). In **D. Sambasiva Rao's case** (1 supra), the order of the Division Bench of this Court explaining the judgment of the Division Bench in **Joint Collector, Kurnool** (3 supra) was not cited. The views expressed in **D. Sambasiva Rao's case** (1 supra), and **M. Venkata Ramaiah's case** (2 supra) being contrary to the views expressed by the Division Bench of this Court in **Joint Collector, Kurnool** (3 supra).

In the facts of the present case, the enquiry initiated against the petitioner is pending, which is supposed to be completed within ninety days as per the decisions of this Court reported supra, this Court is not inclined to go into the merits or otherwise of the subject matter. The material on record discloses that the petitioner has already submitted his detailed explanation denying the charges levelled against him. In view of the same, the third respondent is directed to consider the explanation submitted by the petitioner and pass final order within a period of four weeks from the date of receipt of a copy

of this order by duly observing the principles of natural justice and affording an opportunity being heard 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.

JUSTICE CHALLA KODANDA RAM

DATED 18TH February, 2016.
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[\[1\]](#) 2007(6)ALT 239

[\[2\]](#) 2014 (4) ALT 542

[\[3\]](#) APLJ-1996-1-285