

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION NO.29663 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue writ of mandamus declaring the order passed by the 2nd respondent in Rc.No.C/944/2016, dated 22-08-2016 as illegal and arbitrary.

2. Heard learned counsel for the petitioner and the learned Government Pleader representing the respondents.

3. A perusal of the record reveals that the petitioner was appointed as Fair Price Shop dealer in respect of shop No.2286004 of Kukunduchetla, Gumpu, Manugur Mandal, Khammam District. It is the case of the petitioner that she has been distributing the essential commodities to the card holders without any complaint of whatsoever. While so, on 13-05-2016, the officials of the Civil Supplies visited the shop of the petitioner and found variation in the stock. For one reason or other, the respondents have not supplied the essential commodities to the petitioner. The petitioner approached this Court and filed W.P.No.18049 of 2016. This Court allowed the writ petition on 09-06-2016 by following the judgment of **Oleti Tirupathamma V District Supply Officer (City), Visakhapatnam¹** and directed the respondents to supply essential commodities to the petitioner. This Court also made an observation that enquiry may be conducted after giving reasonable opportunity to the petitioner. While things stood thus, on 22-08-2016, the 2nd respondent passed the impugned order suspending the authorization of the petitioner for a period of 90 days.

4. The predominant contention of the learned counsel for the petitioner is that the 2nd respondent passed

¹ 2002 (1) ALD 577 (FB)

the impugned order without giving any notice or opportunity to the petitioner.

5. A careful perusal of the record clearly reveals that the 2nd respondent has not issued any notice to the petitioner directing her to submit her explanation with regard to allegations made against her. No judicial or quasi-judicial authority shall pass orders without giving reasonable opportunity to the affected party. The order passed by the 2nd respondent will fall within the scope of sub clause 5 of clause 5 of Control Order, 2008. The 2nd respondent has given finding as if the petitioner contravened Clauses 5 (16), 17 (a), 17(b), 17(c), 17(A) and 18(b) of the provisions of the A.P. State Public Distribution System (Control) Order, 2008.

6. Learned Government Pleader also submitted that the 2nd respondent passed the impugned order without giving any notice or opportunity to the petitioner.

7. The 2nd respondent ought to have given an opportunity to the petitioner to submit her explanation. The order passed by the 2nd respondent is in the nature of punishment. No order of punishment can be passed against a person without affording any opportunity. The principles of natural justice require that before passing an order of punishment, an opportunity shall be given to the affected party. The order passed by the 2nd respondent is not sustainable. Therefore, the impugned order is liable to be set aside.

8. Accordingly, the writ petition is allowed setting aside the order passed by the 2nd respondent in Rc.No.C/944/2016, dated 22-08-2016. However, this order shall not preclude the 2nd respondent to pass appropriate orders in accordance with law after affording reasonable opportunity to the petitioner. No order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 07-09-2016

Hsd

