

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.5580 of 2016

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Between:

G. Koteswara 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 FP shop dealer of Shop No.16 of Kondayapalem Village, Ipuru Mandal, and since then he has been distributing the essential commodities to the cardholders without any interruption. While so, on 21.08.2015 the Civil Supplies Deputy Tahsildar, Vnukonda, visited the shop of the petitioner, certain irregularities and while issuing mideatordnama dated 21.08.2015 to the petitioner, he submitted a report to the 4th respondent. The 4th respondent issued show cause notice to the petitioner, to which petitioner submitted his explanation denying all the allegations. Thereafter, the 3rd respondent once again issued notice dated 8.12.2015 calling the petitioner to appear before him on 18.12.2015 for enquiry. The petitioner appeared before the 3rd respondent and submitted his detailed explanation. The 3rd respondent, without considering the said explanation, passed the impugned order dated 23.12.2015 suspending the authorization of the petitioner, pending enquiry. Hence the present writ petition is filed.

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 3rd respondent-Revenue Divisional Officer is directed to consider the explanation submitted by the petitioner and pass final orders within a period of four weeks from the date of receipt of a copy of this order 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