

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.9642 of 2016

ORDER:

This Writ Petition is filed challenging the proceedings in RCO/1870/2015, dated 12.02.2016 issued by the 3rd Respondent-Revenue Divisional Officer, Nandyal and also questioning the inaction on the part of the 2nd respondent-Joint Collector, in not considering the appeal and stay application of the petitioner.

The case of the petitioner is that he was appointed as fair price shop dealer of Shop No.02 of Damavaripalem, Addanki Town, PRakasam District and has been distributing essential commodities to the card holders in the village regularly without any remark and maintaining records as per the guidelines issued by the respondent authorities. While so, basing on the report dated 30.11.2015 of the Enforcement Deputy Tahsildar, Addanki, the 3rd respondent-Revenue Divisional Officer, Ongole, has issued show cause notice dated 10.12.2015 framing the following three charges –

- 1) That the FP Shop dealer has diverted 375 kgs., of PDS rice, 38 Kgs., of Sugar and 7 Ltrs., of Kerosene Oil into black market without distributing to the cardholders for his pecuniary gains.
- 2) That the FP Shop dealer has not distributed 2 ½ kgs., of RG Dall to the cardholders by taking their thumb impression in ePOS devise and kept in the shop for diverting into the black market for his pecuniary gains.
- 3) That the dealer has failed to exhibit stock cum price list board in the premises of the FP Shop.

The petitioner has submitted his detailed explanation dated 06.02.2016. However, without properly considering the said explanation the 3rd respondent has passed the impugned proceedings dated 12.02.2016 suspending his Fair Price Shop dealership authorization. Aggrieved by the said orders he filed an appeal before the 2nd respondent-Joint Collector, Civil Supplies, Ongole, along with stay

application on 18.02.2016, but so far the 2nd respondent has not passed any orders either on his appeal or on the stay application. Hence, the writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Learned counsel for the petitioner contended that the 2nd respondent, who is the appellate authority, has not passed any orders either in the appeal or in the stay application. While pointing out the defects in the order passed by the primary authority, i.e., the Revenue Divisional Officer, Ongole, canceling the fair price shop dealership of the petitioner, the learned counsel relied on a judgment of this Court in

Anab-E-Shahi Wines and another vs. Deputy Commissioner ^[1]

wherein this Court had taken a view that it would be unreasonable if the stay is not granted when the appeal is pending before the lower authorities, and contended that the order of the primary authority as well as the appellate authority are liable to be interfered with.

On the other hand, learned Government Pleader for Civil Supplies contended that the Division Bench of this Court vide judgment dated 30.10.2014 in W.A.No.1346 of 2014 had interfered with the order dated 26.09.2014 of the learned single Judge in W.P.No.29209 of 2014 granting stay while disposing of the writ petition. He also relied on the judgment dated 14.05.2015 of another Division Bench in W.A.No.382 of 2015.

In the above two writ appeals cited by the learned Government Pleader **Anab-E-Shahi Wines** case (1 supra) was not cited. Apart from that, the judgment in Writ Appeal No.1346 of 2014 is not applicable to the present set of facts for the reason that this Court had directed the appellate authority to dispose of the appeal and not stay application, because the order cited, which is applicable for refusing to stay, itself is a non speaking order and no useful purpose would be served once again directing the appellate authority to make a reasoned order except to multiply the litigation.

In that view of the matter, this Court deems it appropriate to direct the appellate authority to dispose of the appeal as expeditiously as possible, since the subject matter of the appeal before the appellate authority, who is the Joint Collector, is only cancellation of a fair price shop dealership license. However, in the interregnum period to prevent appointment of any third party as fair price shop dealer, interest of justice would be served in granting stay of the order of the lower authorities.

Accordingly, the Writ Petition is disposed of directing the 2nd respondent-Joint Collector to dispose of the appeal itself in a time bound manner. As the right of appeal being a statutory right and in view of the judgment of this Court in **Anab-E-Shahi Wines** case (1 supra) I deem it appropriate to grant stay of the order dated 12.02.2016, passed by the 3rd respondent-Revenue Divisional Officer, pending disposal of the appeal by the 2nd respondent. The 2nd respondent shall dispose of the appeal within a period of six weeks from the date of receipt of a copy of this order.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J.

23rd, March, 2016
ssv

[\[1\]](#) (1995) 98 STC 386 (AP)