

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.10746 of 2016

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Between:

G. Laleppa

PETITIONER

AND

1. The State of Andhra Pradesh, rep. by its Secretary, Consumer Affairs, Food and Civil Supplies (CS-I) Department, Secretariat, Buildings, Hyderabad, and others.

RESPONDENTS

ORDER:

This writ petition is filed challenging the action of the 2nd respondent in suspending the authorization of the petitioner vide proceedings dated 16.03.2016 pending enquiry.

The case of the petitioner is that he was appointed as fair price shop dealer of Golladoddi Village, Guntakal Mandal, Anantapur District and has been distributing the essential commodities to the cardholders since then. While so, basing on the report submitted by the 3rd respondent dated 15.02.2016 the 2nd respondent issued show cause notice on 25.02.2016 and directed the petitioner to submit his explanation. The petitioner submitted his explanation on 05.03.2016 through Advocate. Not satisfied with the explanation, the 2nd respondent passed final orders dated 16.03.2015 suspending the petitioner's authorization. Challenging the same, the present writ petition is filed.

Heard learned counsel for the petitioner and learned Government pleader for Civil Supplies and perused the material available on record.

Inasmuch as there are allegations with regard to violation of the Control Order and the petitioner has already submitted his explanation, and as enquiry is required to be conducted in respect of the charges framed against the petitioner, this Court is not inclined to entertain the writ petition. However, learned counsel for the petitioner expressed specific apprehension that since suspension order is passed by the 2nd respondent after issuing show cause notice to the petitioner virtually recording findings on the merits of the matter, the 2nd respondent would affirm the findings recorded in the show cause notice.

The charges framed against the petitioner read as under:

“Charge No.1: The F.P. Shop dealer distributing the ECs only for three or four days and for the rest of days he is closing the FP Shop. There by the FP Shop dealer is violated clause 22 (vii) of APSPDS Control Order 2008.

Charge No.2: The FP Shop dealer is issuing the ECs by less weeighment. There by the FP Shop dealer is violated clause 7 (i) of APSPDS Control Order 2008.

Charge No.3: The FP Shop dealer is not exhibited of stock cum price list board in the FP Shop premises and she is selling the ECs to the cardholders at higher prices. Thereby the FP shop dealer is violated clause 22 (v) of the APSPDS Control Order 2008.

Charge No.4: The FP shop dealer is maintained Stock register but the accounts are not properly maintained. Thereby the FP shop dealer is violated clause 22 (viii) of APSPDS Control Order 2008.

Charge No.5: The FP shop dealer has made concocted entries in the sales register and deprived the said stock s to the cardholders. He used the ECs of the concocted entries for his personal gains and show false entries to the inspecting officers at the time of inspection. There by the FP Shop dealer is violated clause 22 (viii) of APSPDS Control Order 2008.”

A perusal of the impugned order would go to show that findings have already been recorded by the 2nd respondent with respect to the charges. However, the same have to be considered as prima facie findings, since with regard to the charges mentioned in the show cause notice enquiry needs to be conducted specifically taking into consideration the allegations made and the explanation submitted by the petitioner. Particularly charge Nos.2 and 3, are required to be verified with the factual data, charge No.2 by verifying the E-pass records and Charge No.3 by calling the cardholders to give evidence with respect to their getting lesser quantities. As against these charges enquiry has to be conducted and thereafter findings have to be recorded. In fact, even without recording any findings based on the report of the Tahsildar suspension pending enquiry would not have been ordered. It is only in the case where suspension order is being passed as a substantial punishment, show cause notice and explanation are required to be made, but not with respect to suspension pending enquiry.

In the facts of the present case, inasmuch as explanation has already been submitted by the petitioner, there shall be a direction to the respondents to complete the enquiry and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

1st April, 2016
Js.