THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.30337 of 2016

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the fourth respondent in passing the impugned order dated 02.09.2016, suspending the authorization of the petitioner, as illegal and arbitrary.

Heard Sri Butta Vijay Bhaskar, the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies(Andhra Pradesh) representing the respondents 1 to 5.

A perusal of the record reveals that twenty years back the petitioner was appointed as fair price shop dealer of Shop No.0108006 of Gollaprolu Village and Mandal of East Godavari District. It is the case of the petitioner that she has been distributing the essential commodities to the cardholders without any complaint whatsoever. While so, on 01.09.2016 the Assistant Civil Supplies Officer, Kakinada along with others visited the premises of the petitioner's shop and found variation in the stock. Basing on the report submitted by the Tahsildar, the fourth respondent suspended the authorization of the petitioner on 02.09.2016.

The predominant contention of the learned counsel for the petitioner is that the fourth respondent suspended the authorization of the petitioner without taking into consideration the factual aspects.

It is a settled principle of law that this Court, while exercising jurisdiction under Article 226 of the Constitution of India shall not lightly interfere with the order of suspension passed by a quasi judicial authority. However, this Court can set aside the order of suspension passed by the quasi judicial authority if the same is ex facie illegal or passed without jurisdiction.

As per the provisions of the Essential Commodities Act and the Control Order 2008, the Revenue Divisional Officer / the Sub-Collector, as the case may be, is the appointing authority. As per Clause 5 of the Control Order, the Revenue Divisional Officer is empowered to suspend the authorization of a fair price shop dealer if the dealer commits any irregularity or contravenes the provisions of the Control Order.

It is the case of the respondent No.4 that the petitioner has contravened the provisions of the Control Order, 2008. Whether there is any variation in the stock, as pleaded by the respondent No.4 is purely a disputed question of fact, which cannot be gone into by this Court, while exercising jurisdiction under Article 226 of the Constitution of India.

It is not the case of the petitioner that the respondent No.4 is not competent to suspend the authorization pending enquiry.

As rightly pointed out by the learned Assistant Government Pleader, any order of suspension passed by the appointing authority is appealable one in view of Clause 20 of the Control Order. For one reason or the other, the petitioner, without exhausting the alternative remedy of appeal, has, directly approached this Court invoking the extra ordinary jurisdiction. This Court shall not lost sight of this aspect also.

However, from a perusal of the material available on record, this Court is of the considered view that the order passed by the Revenue Divisional Officer is not ex facie illegal, warranting interference of this Court.

Having regard to the facts and circumstances of the case and also the submissions made by both the counsel, this Writ Petition is disposed of directing the fourth respondent to dispose of the enquiry initiated against the petitioner within two months from the date of receipt of copy of this order in accordance with law. No order as to costs. As a sequel, the miscellaneous petitions, pending if any in this writ petition, shall stand closed.

T.SUNIL CHOWDARY, J

September 14, 2016.
Rns