

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.33991 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the third respondent in suspending the authorization of the petitioner in respect of Fair Price Shop No.0319013 of Kannampet Village, Ravikamatham Mandal, Visakhapatnam District, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies 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. 0319013 of Kannampet Village, Ravikamatham Mandal, Visakhapatnam District in the year 1996 on temporary basis. The authorization of the petitioner was extended from time to time. It is the case of the petitioner that he has been distributing the essential commodities to the satisfaction of one and all including the card holders. While so, on 08.09.2016 the Deputy Tahsildar, Civil Supplies visited the shop of the petitioner and found some variation in the stock. Basing on the report submitted by the Deputy Tahsildar, the third respondent issued the impugned order dated 14.09.2016 suspending the authorization of the petitioner.

4. The contention of the learned counsel for the petitioner is that the petitioner has not contravened the provisions of the Essential Commodities Act or A.P. State Public Distribution

System (Control) Order, 2008 (for short, 'the Control Order'); therefore, the impugned order is not legally sustainable.

5. *Per contra*, the learned Assistant Government Pleader submitted that the petitioner has contravened the provisions of the Control Order; therefore the third respondent is justified in suspending the authorization of the petitioner.

6. Whether the petitioner has contravened the provisions of the Control Order or not will come to light during the course of enquiry. 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 without jurisdiction.

7. 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.

8. Whether there is any variation in the stock, as pleaded by the third respondent 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.

9. It is not the case of the petitioner that the third respondent has no authority whatsoever to suspend the authorization of the petitioner pending enquiry.

10. 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 statutory remedy of appeal, has, directly approached this Court invoking the extraordinary jurisdiction. This Court shall not lost sight of this aspect also.

11. 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 or without jurisdiction, warranting interference of this Court.

12. At the time of arguments, the only relief sought for by the learned counsel for the petitioner is to direct the third respondent to dispose of the enquiry pending against the petitioner as expeditiously as possible. The learned Assistant Government Pleader also consented for the same.

13. In view of the submissions made by the learned counsel for both parties, this Court is not inclined to go into the merits of the main case.

14. Having regard to the facts and circumstances of the case and also the submissions made by the learned counsel for both parties, the third respondent is hereby directed to dispose of the enquiry pending against the petitioner, after affording a reasonable

opportunity to him to put forth his stand, as expeditiously as possible, preferably within a period of six (6) weeks from the date of receipt of a copy of this order.

15. With the above direction, the Writ Petition is disposed of.
No costs.

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

T.SUNIL CHOWDARY, J

Date: 30.09.2016
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