

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.39823 of 2015

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Between:

K. Sumathi

PETITIONER

AND

1. State of Andhra Pradesh, rep. by its Principal Secretary,
Revenue (Civil Supplies Department), Secretariat Buildings,
Hyderabad, and others.

RESPONDENTS

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies and with their consent the main writ petition itself is taken up for final hearing and disposed of at the interlocutory stage.

This writ petition is filed questioning the action of the 4th respondent in canceling the authorization of the petitioner's fair price shop dealership through proceedings dated 13.04.2015.

The case of the petitioner is that she was appointed as fair price shop dealer of Tekumanda Village Bangarupalem Mandal, Chittoor District through proceedings dated 18.07.2008 on permanent basis. The 4th respondent issued proceedings dated 26.11.2014 suspending the authorization of the petitioner pending enquiry on some allegations. Aggrieved by the same, the petitioner filed W.P.No.36892 of 2014 and this Court disposed of the said W.P. through order dated 3.12.2014 granting liberty to the petitioner to avail alternative remedy of appeal before the Joint Collector. Accordingly the petitioner approached the 3rd respondent-Joint Collector by way of appeal. The 3rd respondent vide proceedings dated 15.12.2014 directed the 4th respondent to complete the enquiry within a period of four weeks and pass final orders. As there was no action by the 4th respondent, the petitioner once again filed W.P.No.9082 of 2015 and obtained interim suspension of the order of cancellation of authorisation. Though there is a direction by the 4th respondent when the 5th respondent did not allot the essential commodities, the petitioner made a representation to the 5th respondent to comply with the orders of this Court. As there was no response, the petitioner filed C.C.No.916 of 2015. Meanwhile, a vacate stay petition has been filed in W.P.No.9082 of 2015 by the

learned Government Pleader along with counter affidavit stating that the authorization of the petitioner has been cancelled vide proceedings dated 13.04.2015. Challenging the same, the present writ petition is filed.

This Court while admitting the writ petition on 08.12.2015, granted interim suspension of the impugned order pending disposal of the writ petition.

Now a vacate stay petition is filed in the present writ petition by the learned Government Pleader for Civil Supplies along with counter affidavit, seeking vacation of the interim order dated 08.12.2015 passed in W.P.M.P.No.51394 of 2015.

As can be seen from the interim order dated 8.12.2015, this Court after considering the facts and circumstances of the case, and after referring to a judgment of this Court **G. Prabhakar and 14 others v. Collector (Civil Supplies), Karimnagar District and 3 others**^[1] came to a prima facie opinion that there was total non-consideration of the explanation dated 13.04.2015 submitted by the petitioner while passing the order of suspension of authorization of the petitioner, on the same day itself. Further, it is admitted by the learned Government Pleader that opportunity of hearing, as held by this Court repeatedly, has not been given to the petitioner. Practically, there is no change in the situation even at this point of time. Therefore, this Court see no reason to vacate the interim order and no useful purpose would be served by keeping the writ petition pending.

Since the explanation of the petitioner was not at all adverted to and opportunity of hearing has not been provided, interest of justice would be served by setting aside the impugned order dated 13.04.2015 the 4th respondent may be directed to pass appropriate orders after considering the explanation offered by the petitioner. It is need less to mention that the petitioner is entitled to have the opportunity of hearing. This Court is also particularly sensitize that the

reasons for coming to a conclusion should reflect in the order as it is not sufficient to say for the quasi judicial/administrative authority/State that the explanation offered by a dealer is not convincing.

The learned Government Pleader for Civil Supplies submits that as the petitioner's authorization was cancelled, in the interregnum period a temporary arrangement has been made, and hence, the petitioner cannot be allowed to distribute the essential commodities merely because this Court allowed the writ petition.

I am unable to accept the arguments of the learned Government Pleader. Once the impugned order, depriving the petitioner to carry on his trade/business by way of distribution of essential commodities on account of cancellation of his authorization, has been set aside there cannot be any impediment for the respondents to allow the petitioner to distribute the essential commodities, as his right to carry on trade/business would spring back automatically and the dealer would be entitled to supply the goods and distribute the same to the cardholders.

Therefore, the writ petition is allowed setting aside the impugned order. It is made clear that the petitioner is entitled to supply the essential commodities as was done earlier. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

18th February, 2016
Js.

[\[1\]](#) 2013 (3) ALT 640