

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.35284 OF 2016

ORDER:

The petitioner states that he worked as Village Gram Panchayat President of Ammapuram Village of Thorrur Mandal. He along with other card holders lodged a complaint to respondent No.5 on 13.10.2009 with regard to the irregularities committed by respondent No.6, when respondent No.6 was functioning as fair price shop dealer. On the basis of the said complaint, respondent No.6 was initially suspended on 16.10.2009 and an enquiry was conducted by respondent No.4, who passed an order of termination of the dealership of respondent No.6 on 05.08.2010. In 6-A proceedings conducted before the Joint Collector, Warangal, he passed an order on 25.06.2010 ordering for confiscation of 70% value of the seized stock. Challenging the said order, respondent No.6 filed an appeal before the Principal Sessions Judge, Warangal, in CrI.A.No.165 of 2010 and the order of the Joint Collector was partly modified by reducing the confiscation from 70% to 35%. The said order has become final. In spite of the above orders, when respondent No.6 was reinstated by the orders of respondent No.4, dated 15.03.2011, by revoking the order of suspension, the petitioner herein filed W.P.No.7302 of 2011 and this Court, by order, dated 22.03.2011, granted interim suspension of the said order. Though respondent No.6 filed W.V.MP.No.1595 of 2011, to vacate the order, dated 22.03.2011, this Court, by order, dated 26.03.2012, made the said order absolute. Challenging the same,

respondent No.6 preferred W.A.No.795 of 2012 and the same was dismissed on 13.07.2012. In spite of the same, respondent No.4 passed another order on 19.09.2016 reinstating respondent No.6 by revoking the termination of authorization as well as the suspension. The same was challenged in the present Writ Petition and this Court, by order, dated 20.10.2016, granted interim suspension and seeking vacation of the said order, respondent No.4 filed a counter affidavit along with a petition in W.V.MP.No.4776 of 2016 justifying the said order, stating that a show-cause notice was issued to respondent No.6 and after submission of explanation by respondent No.6 and taking into consideration all the problems faced by the card holders in receiving the essential commodities, the authorization issued in favour of respondent No.6 was restored and the Tahsildar, Thorrur, was directed to release the essential commodities.

2. When a notice was issued to respondent No.6 by the petitioner, respondent No.6 refused to receive the same.

3. Respondent No.6 was a fair price shop dealer and for violation of the provisions of the A.P. State Public Distribution System (Control) Order, 2008, his dealership was suspended. Later on, an enquiry was conducted by respondent No.4 and an order of termination was passed on 05.08.2010. There was no appeal against the said order and it has become final. However, in respect of 6-A proceedings, the Joint Collector, Warangal, passed an order on 25.06.2010 ordering confiscation of 70% value of the seized stock in

favour of the Government. Against the said order, respondent No.6 preferred Crl.A.No.165 of 2010 before the Principal Sessions Judge, Warangal, and the said appeal was disposed of on 19.11.2010 modifying the order of the Joint Collector by reducing the confiscation from 70% to 35%. The said order has also become final. Thus, the order of cancellation of authorization of fair price shop dealership, dated 05.08.2010, and the order passed under Section 6-A proceedings have become final. In spite of the same, respondent No.4 revoked the order of suspension by proceedings, dated 15.03.2011. When the earlier order of suspension got merged with the order of cancellation of authorization of the fair price shop dealership, in those circumstances, the petitioner challenged the said order in W.P.No.7302 of 2011 and this Court suspended the said order on 22.03.2011. However, the Writ Petition itself was disposed of in view of the present Writ Petition. The present Writ Petition was filed challenging the order passed by respondent No.4 on 19.09.2016 revoking termination of authorization as well as the suspension, with the following observations:

“Thereafter, details were submitted to the Government Pleader (CS) of Hon’ble High Court of A.P., Hyderabad for filing Counter. However, having gone through the parawise remarks, the GP CS has suggested the RDO, Mahabubabad to issue a show cause notice to the FP Shop Dealer as the latter has said in certain occasions that he has not been served any notices on the suspension and termination of authorization. Accordingly, the FP Shop Dealer, has submitted the explanation. Having gone

through the explanation and careful examination of the case, besides taking into consideration of the problems being faced by the card holders in receiving the ECs in time for want of FP shop Dealers in the village and taking into consideration of the past record which was clean, a decision has been taken, to reinstate the dealer duly restoring the authorization of the Dealer.”

4. Respondent No.4 has no jurisdiction to review his earlier order when he has already cancelled the authorization of dealership and the said order has become final. Respondent No.6 has not taken any steps to challenge the said order. There was no occasion for respondent No.4 to issue another show-cause notice after passing a final order on 05.08.2010. In the circumstances, the order passed on 19.09.2016 by respondent No.4 is without jurisdiction and is accordingly set aside.

5. The Writ Petition is accordingly allowed. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

A. RAMALINGESWARA RAO, J

December 29, 2016
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THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO



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