

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.23498 of 2016

ORDER:

1 This Writ Petition is filed under Article 226 of the Constitution of India seeking writ of Mandamus declaring the proceedings in Ref.D/973/2016, dated 29.06.2016 issued by the 3rd respondent ordering cancellation of the Fair Price Shop authorization issued in favor of the petitioner for Shop No.24, Botmeedapalli Village, Obulavaripalli Mandal, Rajampet Division, YSR District as arbitrary, illegal and contrary to the provisions of the Andhra Pradesh State Public Distribution System (Control) Order, 2008 apart from being violative of the fundamental rights guaranteed to petitioner under Articles 14, 19 & 21 of the Constitution of India and consequently set aside the same.

2 Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for the respondents.

3 The only contention of the learned counsel for the petitioner is that the third respondent has passed the order without conducting appropriate enquiry and without giving opportunity to the petitioner to examine the witnesses, who made complaints against him. In all fairness, the learned counsel for the petitioner submitted that the burden of proof lies on the petitioner to establish his case. He further submitted that in the explanation submitted to the show cause notice issued by the third respondent, the petitioner did not request the RDO to grant time for examination of witnesses. Admittedly, the petitioner approached this Court without exhausting the remedy of appeal available to him on the sole ground that no opportunity was given to him.

4 Having regard to the facts and circumstances of the case, the impugned order dated 29.06.2016 passed by the third respondent is

set aside and the matter is remitted to the third respondent for conducting fresh enquiry in accordance with law. The third respondent – RDO is further directed to dispose of the case of the petitioner within a period of one month from the date of receipt of a copy of this order, after giving reasonable opportunity to the petitioner to adduce evidence, if any, if he so chooses.

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

T. SUNIL CHOWDARY, J

Date: 26.07.2016

Kvsn