

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.27210 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the impugned order in Rc.No.4802/2015-B dated 20.07.2016 on the file of the second respondent, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleaders for Civil Supplies, and Revenue (Andhra Pradesh).

3. A perusal of the record reveals that the petitioner was appointed as Fair Price Shop Dealer in respect of Shop No.19 of Andugula Kothapalem Village, Vinukonda Mandal, Guntur District in the year 2008. It is the case of the petitioner that he has been distributing the essential commodities to the card holders without any complaint whatsoever. While so, the second respondent suspended the authorization of the petitioner in respect of Fair Price Shop No.19 on 22.07.2014 without conducting inspection of the shop and enquiry. Aggrieved by the same, the petitioner filed Writ Petition No.25486 of 2014. This Court by order dated 09.09.2014, allowed the said writ petition and set aside the order of suspension directing the second respondent to conduct enquiry. Thereafter, the second respondent did not conduct any enquiry and the petitioner is being continued as fair price shop dealer. While so, on 28.05.2016, the second respondent issued a show-cause notice directing the petitioner to submit his explanation. Being not satisfied with the explanation of the petitioner, the second respondent initiated enquiry against him by suspending his authorization on 20.07.2016

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

System (Control) Order, 2008 and the authorization of the petitioner was suspended without considering the explanation of the petitioner.

5. The learned Assistant Government Pleader for Civil Supplies submitted that the petitioner contravened the provisions of A.P.Public Distribution System (Control) Order, 2008; therefore the order passed by the second respondent is legally sustainable.

6. Whether the petitioner has contravened the provisions of A.P.Public Distribution System (Control) Order, 2008 or not is purely a disputed question of fact, which cannot be gone into while exercising the jurisdiction under Article 226 of the Constitution of India. If this Court expresses any opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings in view of pendency of enquiry before the second respondent.

7. The learned counsel for the petitioner submitted that the second respondent may be directed to dispose of the enquiry pending against the petitioner as expeditiously as possible. The learned Assistant Government Pleaders for the respondents also consented for the same.

8. Having regard to the facts and circumstances of the case and also the submissions made by learned counsel for both parties, the second respondent is hereby directed to complete the enquiry pending against the petitioner, after affording a reasonable opportunity to him to put forth his defence, as expeditiously as possible, preferably within a period of two (2) months from the date of receipt of a copy of this order, failing which, the second respondent is further directed to restore the authorization of the petitioner in respect of Fair Price Shop No.19 of Andugula Kothapalem Village, Vinukonda Mandal, Guntur District.

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

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

T.SUNIL CHOWDARY, J

Date: 12.08.2016

lvd