

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.17809 OF 2016

ORDER:

This Writ Petition is filed to declare the impugned proceedings, dated 10.05.2016, of the 3rd respondent, as illegal and arbitrary and consequently, set aside the same.

2. The averments made in the affidavit would disclose that the petitioner is holding a valid authorization of Fair Price Shop No.59, Unukuru Village, Regidi Amadalavalasa Mandal, Srikakulam District and appointment order was issued vide proceedings, dated 21.05.2015, as Fair Price Shop dealer by the 3rd respondent pursuant to the order of this Court, dated 27.04.2015 in W.P.No.12509 of 2015, which was filed for appointment of petitioner as Fair Price dealer on compassionate grounds on demise of his father. Vide proceedings, dated 10.05.2016, 3rd respondent suspended the authorization of Fair Price Shop of the petitioner alleging certain irregularities. Three charges were framed against the petitioner. Earlier to the issuance of impugned order, a show cause notice was issued on 12.10.2015, for which an explanation was submitted by the petitioner on 23.10.2015 and thereafter, the present impugned order came to be passed without conducting any enquiry as per the Control Order, 2008.

Appointment order was issued to the petitioner on 21.05.2015, whereas charges levelled against the petitioner relate to the years 2007 to 2015 and 3rd respondent had ordered to recover the amount mis-utilized by the earlier fair price shop dealer, for which the petitioner has nothing to do and the 3rd respondent is not justified in issuing the impugned order on the guise of misutilization by the

father of the petitioner without conducting any enquiry.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Fair Price shop dealer on compassionate grounds by giving benefit under G.O.Ms.No. 4, Consumer Affairs, Food and Civil Supplies (CS.1) Department, dated 28.02.2014.

4. Learned Government Pleader appearing for the respondents opposed the Writ Petition and submits that enquiry is required to be conducted and the petitioner can as well raise this ground before the 3rd respondent-enquiry officer.

5. The petitioner was appointed as Fair Price shop dealer on 21.05.2015 only and he started functioning with effect from July, 2015. The suspension order came to be issued on account of alleged irregularities for the period from 2007-2015, which cannot be fastened on the petitioner. *Prima facie* the contention of the petitioner merits consideration. Even assuming that there were some irregularities in the years 2007-2015 in running Fair Price shop by the father of the petitioner, who was dealer at the relevant point of time, there is no Rule or Regulation which would enable the respondent authorities to fasten such liability on the petitioner, whose authorization came into existence in the month of July, 2015. In those circumstances, the suspension of authorization of petitioner's Fair Price shop, pending enquiry cannot be sustained on that ground. However, two other charges made against the petitioner are required to be enquired into.

6. In the facts and circumstances of the case, there shall be a direction to the 3rd respondent to complete the enquiry after issuance of show cause notice and taking into consideration the explanation that may be submitted by the petitioner. Till such time,

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

WRIT PETITION No.17809 OF 2016

Date:08.06.2016

YVL