

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

Writ Petition No.36861 of 2016

ORDER:

The petitioner was appointed as a Fair Price Shop Dealer of Shop of No.26 of Ragulapadu Village, Vajrakarur Mandal, Ananthapuramu District, in the year 2007. While so, the 4th respondent sent a report against the petitioner and basing on the said report, the 3rd respondent cancelled the authorization of the petitioner by order dated 30-09-2015. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent and when the application of the petitioner seeking stay of operation of order dated 30-09-2015 was dismissed, the petitioner filed W.P.No.17778 of 2015 and the same was disposed of on 07-06-2016 directing the 2nd respondent to pass fresh orders in the appeal preferred by the petitioner and till the orders were passed by the 2nd respondent, the order dated 30-09-2015 was suspended. Now, the 2nd respondent passed the order dated 30-09-2016 confirming the order of the 3rd respondent. Challenging the same, the present writ petition is filed.

Six charges were levelled against the petitioner and the 3rd respondent passed order on 30-09-2015 in respect of six charges by giving detailed reasons and giving opportunity to the petitioner.

The petitioner, as stated, has filed an appeal before the 2nd respondent and the 2nd respondent by order dated 30-09-2016 disposed of the appeal with the following observations:-

“In the present appeal before me the dealer alleged that the R.D.O. Ananthapuramu has

not passed speaking orders, no acceptable evidence and not given an opportunity and not heard the case. The contention of the dealer is not true as the R.D.O, Ananthapuramu has given an opportunity for filing an explanation, and after discussed charge-wise finding basing on the record and passed orders. Hence the orders passed by the R.D.O, Ananthapuramu are in order. The appeal grounds are also not convincing. I have no reason to interfere with the orders passed by the RDO, Ananthapuramu in his proceedings D.Dis.DI.CS/1400/2015 dated 30-09-2015. As a result I hereby dismiss the appeal confirming the orders of the R.D.O., Ananthapuramu passed in D.Dis.DI.CS/1400/2015 dated 30-09-2015 cancelling the authorization of F.P. shop dealership held by Smt.M.Saraswathi, F.P. shop dealer, Shop 26, Ragulapadu Village, Vajrakaruru Mandal."

The 2nd respondent as appellate authority dealt with only one contention of the petitioner stating that the petitioner was not given an opportunity and he recorded a finding that the 3rd respondent passed the order after giving due opportunity to the petitioner. However, while considering the grounds of appeal, he merely stated that the appeal grounds are not convincing and accordingly expressed his disinclination to interfere with the order passed by the 3rd respondent. Except stating so, no other reason was assigned by the 2nd respondent. The 2nd respondent as an appellate authority ought to have considered the case independently, apart from the reasons mentioned by the 3rd respondent, on the basis of the record and grounds raised by petitioner.

In view of non-application of mind by the 2nd respondent, this court is constrained to set aside the impugned order dated 30-09-2016, after hearing the learned Government Pleader, and the matter is remanded to the 2nd respondent for fresh consideration of the appeal preferred by the petitioner in accordance with law and pass final orders, after giving due opportunity to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 28-10-2016

Note:

Issue C.C. in one week

(B/o)

Prv



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Prv