

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**WRIT PETITION No.30966 OF 2016**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of the second respondent in suspending the authorization of the petitioner as fair price shop dealer, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies (Telangana).

3. A perusal of the record reveals that the petitioner was appointed as Fair Price Shop Dealer in respect of Shop No.4637 of Kannala Village, Kamanpur Mandal, Karimnagar District long back. It is the case of the petitioner that she has been distributing the essential commodities to the cardholders without any complaint whatsoever. While so, on 17.08.2016, the Vigilance Officials visited the fair price shop of the petitioner and found variation in the stock. Basing on the report submitted by the Vigilance Officials, the second respondent suspended the authorization of the petitioner vide Proceedings No.C/1007/2016, dated 22.08.2016 in respect of Fair Price Shop No.4637. As per the impugned proceedings, the petitioner has violated the provisions of A.P. State Public Distribution System (Control) Order, 2008. On 01.09.2016 the petitioner submitted an explanation requesting the second respondent to revoke the suspension.

4. It is a settled principle of law that this Court, while exercising jurisdiction under Article 226 of the Constitution of

India shall not lightly interfere with the order of suspension passed by a quasi judicial authority. However, this Court can set aside the order of suspension passed by the quasi judicial authority if the same is ex facie illegal or passed without jurisdiction.

5. As per the provisions of the Essential Commodities Act and the Control Order 2008, the Revenue Divisional Officer / the Sub-Collector, as the case may be, is the appointing authority. As per Clause 5 of the Control Order, the Revenue Divisional Officer is empowered to suspend the authorization of a fair price shop dealer if the dealer commits any irregularity or contravenes the provisions of the Control Order.

6. It is the case of the respondent No.2 that the petitioner has contravened the provisions of the Control Order, 2008. Whether there is any variation in the stock, as pleaded by the respondent No.2 is purely a disputed question of fact, which cannot be gone into by this Court, while exercising jurisdiction under Article 226 of the Constitution of India.

7. It is not the case of the petitioner that the respondent No.2 is not competent to suspend the authorization pending enquiry.

8. As rightly pointed out by the learned Assistant Government Pleader, any order of suspension passed by the appointing authority is appealable one in view of Clause 20 of the Control Order. For one reason or the other, the petitioner, without exhausting the alternative remedy of appeal, has, directly approached this Court invoking the extra ordinary jurisdiction. This Court shall not lost sight of this aspect also.

9. However, from a perusal of the material available on record, this Court is of the considered view that the order passed by the Revenue Divisional Officer is not ex facie illegal, warranting interference of this Court.

10. At the time of arguments, 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 Pleader for the respondents also consented for the same.

11. 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 dispose of the enquiry pending against the petitioner, after affording a reasonable opportunity to her to put forth her stand, as expeditiously as possible, preferably within a period of two (2) months from the date of receipt of a copy of this order.

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

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

**T.SUNIL CHOWDARY, J**

Date: 14.09.2016

Note: Issue CC in one week.

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