

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM
WRIT PETITION No.14128 OF 2016

ORDER:

The order of suspension pending enquiry dated 31.03.2016 is challenged before this Court in this writ petition.

The contention of the learned counsel for the petitioner is that the impugned order is *ad interim* in nature and it does not say suspension pending enquiry. Learned counsel for the petitioner places reliance upon the order of this Court in W.P.No.17950 of 2014 dated 01.07.2016, in support of his case.

Heard and considered the submissions of learned counsel for the petitioner as well as the learned Government Pleader.

As can be seen from the impugned order, on finding huge variation of 2882 ltrs. of kerosene, which was meant for public distribution, the second respondent had kept the petitioner under suspension by invoking clause 28 (2) of the A.P. Petroleum Products (L&RS) Order, 1980. Clause 28 which reads thus:

28. Contravention of Conditions of Licence/Registration Certificate/Supply Card/Provisions of this Order:

(1) No holder of licence or registration certificate or supply card issued under this order or his agent or servant or any other person acting on his behalf shall contravene, attempt or abet the contravention of any of the provisions of this Order or any of the conditions of the licence, registration certificate or any directions issued thereunder. If any such holder or his agent or his servant or any person acting on his behalf contravenes any of the said terms or conditions, his licence or registration certificate or supply card may be cancelled or suspended for such period as may be specified by an order in writing by the licensing authority:

Provided that no order shall be made under this clause unless the licensee or the holder of registration certificate

has been given a reasonable opportunity for representing his case in writing and also having heard in person against the proposed cancellation.

(2) Pending action as in sub-clause (1) above, the licensing authority, for reasons to be recorded in writing, order an interim suspension of the licence, registration certificate or supply card.

As can be seen from the above provision, if an order is passed under clause 28 (1), the same is final in nature as an opportunity of hearing is a pre-requisite condition. The proviso to clause 28 makes it mandate to cause an enquiry and affording an opportunity of representing the case before passing of an order. However, if an order is made under clause 28 (2), the same is relatable to suspension pending enquiry and as such there is no opportunity of hearing as such is being provided. Though the impugned order is passed by making a specific reference to clause 28 (2), no specified period of suspension as such has been mentioned therein. In other words, the second respondent was conscious of the fact that he was exercising power under clause 28 (2) which can only be a suspension pending enquiry order. Merely because the time frame has not been specified, the order does not cease to be a suspension pending enquiry order. In those circumstances and considering the seriousness of the allegations leveled, this Court is of the view that the impugned order does not call for any interference of this Court.

However, in the interest of justice and considering the fact that the petitioner had already submitted his explanation, there shall be a direction to the second respondent to complete enquiry within a period of six weeks from the date of receipt of a copy of this order and pass final orders, after giving due opportunity to the petitioner and after complying the procedures prescribed.

With above observations, the writ petition is disposed of. No order as to costs.

Consequently, Miscellaneous Petitions pending, if any, in this writ petition shall stand closed.

Challa Kodanda Ram, J

25th April, 2016.
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