

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

WRIT PETITION No.22048 of 2015

ORDER:

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This Writ Petition is filed challenging the order dt.27-12-2014 of the 2nd respondent confirming the order dt.23-08-2014 of the 3rd respondent cancelling the petitioner's Fair Price Shop Dealership authorization.

2. A show cause notice dt.08-07-2014 was issued to petitioner, in which the principal allegation against him was that he had engaged the services of one Jajula Srinivasulu, S/o.Venkateswarlu for distributing commodities and this came to light in the inspection report dt.24-06-2014 of the Enforcement Deputy Tahsildar, Podili.

3. The petitioner gave an explanation on 23-07-2014 stating that he was a permanent Fair Price Shop dealer of Shop No.17 of Gundlapalem village, Gudlur Mandal and was also in-charge dealer of shop No.4 of Gudlur village and Mandal, and in order to avoid inconvenience to the cardholders during distribution of essential commodities, he has taken the assistance of the above individual.

4. The 3rd respondent passed an order on 23-08-2014 cancelling petitioner's Fair Price Shop Dealership authorisation on the ground that petitioner has violated the A.P. State Public Distribution System Control Order, 2008 and in particular Clause 22(13) thereof, which require him to distribute the commodities himself and not through a *benami* and stating that the petitioner himself admitted to have engaged the above individual J.Srinivasulu as his *benami*.

5. Challenging the same, the petitioner filed an appeal before the
2nd respondent.

6. The 2nd respondent confirmed the said order by
order

dt.27-12-2014. The 2nd respondent held that as per G.O.Ms.No.4 dt.19-02-2011, the Fair Price Shop Dealership dealer is expected to run the Fair Price Shop personally and not by his *benami* or through his agent and running a Fair Price Shop through another person has to be treated as *benami* rendering the Fair Price Shop Dealership authorisation liable to be cancelled. He also noted that the said Jajula Srinivasulu engaged by petitioner is not the family member of the appellant and his

name was not found in the appellant's ration card.

7. Challenging the same, this Writ Petition is filed.

8. Learned counsel for petitioner contended that the petitioner had to run two shops. One as a permanent dealer and another as a temporary dealer in two different villages and it is a physical impossibility for petitioner to be in both places at the same time and therefore the petitioner, to avoid inconvenience to the cardholders, had engaged the services of Sri J.Srinivasulu to help him in the distribution of commodities and it cannot be said that the latter was his *benami* and both respondent No.3 and respondent No.2 erred in treating the said individual as petitioner's *benami* and canceling petitioner's Fair Price Shop Dealership authorization on the said ground.

9. Learned Government Pleader for Civil Supplies appearing for respondents does not dispute the impossibility of an individual being present at two different places at the same time.

10. If the respondents wish that the petitioner run the Fair Price Shop himself personally, they ought not to have asked him to distribute the commodities from a different shop in a different village as an In-charge/temporary dealer. This situation being

respondents' own creation, they cannot penalize the petitioner by canceling his Fair Price Shop dealership authorization on this ground for both the shops. The action of respondents is thus clearly perverse and unsustainable.

11. Accordingly the Writ Petition is allowed and the order dt.27-12-2014 of 2nd respondent confirming the order dt.23-08-2014 of the 3rd respondent are both quashed and all the respondents are directed to restore the petitioner's Fair Price Shop Dealership authorization to Shop No.17 of Gundlapalem village, Gudlur Mandal, Prakasam District forthwith. No costs.

12. As a sequel, miscellaneous petitions pending if any, in this Writ Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 11-02-2016

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