

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.22256 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the orders passed by the third respondent in Roc.B/3083/2015, dated 02.01.2016, cancelling the petitioner's fair price shop authorization, without conducting any enquiry and without giving opportunity of personal hearing, as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies (A.P.)

A perusal of the record reveals that the petitioner was appointed as Fair Price Shop Dealer in respect of Shop No.16 of Santhapet, Chittoor District, by the third respondent vide proceedings L.Dis.No.26/chittoor/2010, dated 28.05.2010. It is the case of the petitioner that he has been supplying the essential commodities to the card holders without any complaint whatsoever. While so, the fourth respondent inspected Fair Price Shop No.16 of the petitioner and found variation.

It is the case of the respondents that the card holders caught hold the petitioner while transporting 350 kgs. of PDS rice. The third respondent issued proceedings in Roc.B/3083/2015, dated 23.03.2015 suspending the authorization of the petitioner. On 12.08.2015 the third respondent got issued a show-cause notice calling for the explanation of the petitioner. Being not satisfied with the explanation submitted by the petitioner, the third respondent issued proceedings in Roc.B/3083/2015, dated 02.01.2016 while cancelling the authorization of the petitioner for contravening the provisions of A.P.Public Distribution System (Control) Order, 2008.

The predominant contention of the learned counsel for the petitioner is that the third respondent passed the orders on 02.01.2016 without giving any opportunity to the petitioner to put forth his stand.

The learned Assistant Government Pleader, in all fairness, submitted that no opportunity was given to the petitioner before passing of the impugned order dated 02.01.2016.

At this juncture, the learned counsel for the petitioner has drawn my attention to the decision in **N.Bhaskaramma v. State of Andhra Pradesh**^[1]. For better appreciation of the rival contentions, it is not out of place to extract paragraph Nos.7 and 8 of the said order, which is as follows:

“7. So far as the judgment of the apex Court in S.N.Mukherjee v. Union of India (AIR 1990 SC 1984) is concerned, the same has no application to the facts of the present case; as in the said case, the contention is that no reasons are contained in the impugned order, whereas the contention of the petitioner in the present case is that no meaningful opportunity of hearing was given to her, thus violating the principles of natural justice. The principal ground urged by the learned counsel for the petitioner is with regard to violation of the principles of natural justice, as the petitioner was informed at the last minute as to the change of venue and thereby she was deprived of the opportunity of hearing. In the above mentioned circumstances, the impugned order is liable to be set aside.

8. Accordingly, the writ petition is allowed and the order dated 20.1.2016 passed by the 2nd respondent is set aside. The 2nd respondent is directed to fix a date of hearing, communicate the same to the petitioner well in advance, and pass appropriate orders at the earliest, after giving an opportunity of hearing. There shall be no order as to costs.”

The facts of the case on hand are almost identical to the facts of the case cited supra.

Accordingly, the Writ Petition is allowed and the order dated

02.01.2016 passed by the third respondent in Roc.No.B/3083/2015 is set aside. The third respondent is directed to fix a date of hearing, communicate the same to the petitioner well in advance, and pass appropriate orders afresh in accordance with law, as expeditiously as possible, preferably within a period of one (1) month from the date of receipt of a copy of this order, after giving an opportunity of hearing. If the third respondent fails to pass orders within one month, as stipulated above, he is directed to restore the authorization of the petitioner in respect of Fair Price Shop No.16 of Santhapet, Chittoor District. There shall be no order as to costs.

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

T.SUNIL CHOWDARY, J

Date: 05.08.2016

Note: Issue CC by one week.

(B/o)

lvd

^[1] 2016 (3) ALD 566