

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.5217 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India for the following relief:

“To issue a writ or order or direction more particularly one in the nature of writ of mandamus declare the action of respondent nos.2 to 4 in passing the orders vide proceedings no.Rc.No.4936/2016/D, dt.13.08.2016 and its orders 108.01.2017 with regard to the suspension petitioners fair price shop no.30 Addankivaripallem Village, Nagaram Mandal, Guntur District is illegal, arbitrary, mailafide against to the principles of natural justice and consequently set aside the proceedings no. Rc.No.4936/2016/D, dt.13.08.2016, and its orders dt.28.01.2017 passed by the respondent nos. 2 to 4 by restoring the fair price shop of the petitioner.”

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

3. According to the petitioner he was issued Fair Price Shop authorisation in respect of Shop.No.30 of Addankivaripalem village, Nagaram Mandal, Guntur District in the year 2011. Earlier, while suspending the authorisation of the petitioner vide Proceedings Rc.No.4936/2016/D, dated 13.08.2016, the Revenue Divisional Officer issued a show-cause notice bearing Rc.No.4936/2016/D dated 13.08.2016 framing charge on the ground that the petitioner herein violated Clause 17 (c) of A.P. Civil Supplies (Control) Order 2008. On 20.08.2016, petitioner herein submitted an explanation to the said show cause notice and the Joint Collector, Guntur disposed of the appeal filed by the petitioner against the order of suspension on 06.01.2017 remanding the matter to the Revenue Divisional Officer with a direction to complete the disciplinary proceedings pending against the appellant within one month from the date of receipt of the order. Thereafter, vide Proceedings Rc.No.4936/2016/D, dated 28.01.2017, the Revenue Divisional Officer passed an order cancelling the authorisation of the petitioner herein under Clause

5 (5) of the A.P. Civil Supplies (Control) Order 2008 and the said order is under challenge in the present writ petition.

4. According to the learned counsel for the petitioner there is no impermissible variation in the stocks and there is a slight variation in the stocks and the order of cancellation ought not to have been passed by the respondents.

5. On the other hand, it is the submission of the learned Government Pleader that since the variation is on higher side and the variations are serious in nature, petitioner herein is not entitled for any relief under Article 226 of the Constitution of India. It is further submitted by the learned Government Pleader that in view of the availability of alternative remedy of appeal before the Joint Collector against the order of cancellation, the present writ petition is not maintainable.

6. Having regard to the submissions of the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies and having regard to the alternative remedy of appeal available under Clause 5 (c) of A.P. Civil Supplies (Control) Order 2008, this Court is not inclined to interfere under Article 226 of the Constitution of India. However, this Court is of the considered opinion that the ends of justice would be served if the petitioner is relegated to the alternative remedy of appeal available under Clause 5 of the A.P. Civil Supplies (Control) Order 2008.

7. For the aforesaid reasons, writ petition is disposed of, keeping it open for the petitioner herein to file appeal against the impugned order of cancellation issued by the Revenue Divisional Officer vide Proceedings Rc.No.4936/2016/D, dated 28.01.2017, within a period of one month from the date of receipt of this order. If any such appeal is filed, the same to be considered and appropriate orders be passed within two months thereafter. As a sequel, the miscellaneous applications pending, if any, shall stand disposed of. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:01.03.2017
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Dated 01.03.2017

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