

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

WRIT PETITION No.2036 OF 2017

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the order passed by the Revenue Divisional Officer, Khammam, vide proceedings Rc.No.C3/9763/2016, dated 01.12.2016.

2. Heard, Sri K. Jagadishwar Reddy, learned counsel for the petitioner and learned Government Pleader for Civil Supplies for the State of Telangana for the respondents, apart from perusing the material available before this Court.

3. Petitioner herein is a fair price shop dealer in respect of shop bearing No.2240009 of Mujjigudem Village, Nelakonda Mandal, Khammam District. Pursuant to 6-A case report, dated 13.11.2016, of UD Revenue Inspector (CS), Khammam Urban, the Revenue Divisional Officer, Khammam – 3rd respondent herein, issued a show cause notice asking the petitioner to show cause as to why the authorization of the petitioner should not be cancelled.

4. In response to the said show cause notice, the petitioner herein submitted an explanation on 28.11.2016. The Revenue Divisional Officer by virtue of an order, vide proceedings Rc.No.C3/9763/2016, dated 01.12.2016,

suspended the authorization of the petitioner, till further orders.

5. Challenging the validity and the legal sustainability of the said order passed by the Revenue Divisional Officer, Khammam – 3rd respondent herein, the present writ petition is filed.

6. Learned counsel for the petitioner contends that the order of suspension passed by the Revenue Divisional Officer is highly illegal, arbitrary and opposed to the very spirit and object of the provisions of A.P. State Public Distribution System (Control) Order, 2008. It is further submitted that had the contents of the explanation, dated 28-11-2016, been considered by the Revenue Divisional Officer from proper perspective, the order under challenge would not have emanated. It is further submitted that in the facts and circumstances of the case the order of suspension is un-warranted.

7. On the contrary, it is submitted by learned Government Pleader for Civil Supplies that there is no illegality nor there exists any procedural infirmity in the impugned action, as such, the impugned order is not amenable for any judicial review under Article 226 of the Constitution of India. It is further submitted that since the enquiry is pending before the Revenue Divisional Officer, the petitioner herein is required to

face the enquiry under the A.P. State Public Distribution System (Control) Order, 2008.

8. The information available before this Court manifestly discloses that in response to the show cause notice, dated 24.11.2016, the petitioner herein submitted an explanation, stating that the UD Revenue Inspector (CS), Khammam Urban, did not consider seized stock available with the Fair Price Shop, Mujjigudem Village, which was handed over by the UD Revenue Inspector (CS), Khammam Urban, on 17.08.2014. As per the said explanation, the petitioner herein also enclosed the stock receipt for 2.50 Quintals of rice to substantiate the said stand.

9. A perusal of the order under challenge shows that except referring to the explanation, dated 28.11.2016, offered by the petitioner, in response to the show cause notice and referring to the above-mentioned reason assigned by the petitioner, the Revenue Divisional Officer did not consider anything as to the veracity of same. Therefore, in the facts and circumstances of the case and having regard to the reasons mentioned supra, this Court is of the considered opinion that the ends of justice would be served if the Revenue Divisional Officer, Khammam, is directed to pass appropriate final orders pursuant to the show cause notice, dated 24.11.2016, by keeping the impugned order, dated 01.12.2016, under suspension pending such exercise.

10. For the aforesaid reasons, the writ petition is disposed of, directing the Revenue Divisional Officer, Khammam – 3rd respondent herein, to pass final orders pursuant to the show cause notice, dated 24.11.2016, after taking into consideration the explanation offered by the petitioner and after giving notice and opportunity of hearing to the petitioner, in accordance with law, within a period of one month from the date of receipt of a copy of this order. Till the said exercise attains finality, the order under challenge shall remain suspended and consequently, the petitioner shall be permitted to run fair price shop.

11. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

20.01.2017
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A.V.SESHA SAI, J