

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

WRIT PETITION No.11341 OF 2017

ORDER:

The present Writ Petition is filed under Article 226 of the Constitution of India challenging the order of suspension of fair price shop authorisation passed by the Sub-Collector, Vijayawada, respondent No.4 herein, vide proceedings No.SCVJ/2017-SA(A7)-SCO-VJA, dated 17.01.2017.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies, appearing for respondents 1, 2, 4 and 5 and the learned Government Pleader for Revenue, appearing for respondent No.3.

3. Followed by a show cause notice dated ..01.2017 and the submission of explanation by the petitioner herein, Sub-Collector, Vijayawada (R.4) by virtue of the proceedings under challenge suspended fair price shop authorisation of the petitioner herein in respect of shop No.35 of Wynchipeta, Vijayawada, Krishna District, pending enquiry.

4. According to the learned counsel for the petitioner, the impugned order of suspension, in the facts and circumstances of the case, is unwarranted and contrary to law. It is further submitted by the learned counsel that since the variations are very low and as they are within the permissible limits, respondent No.4 herein grossly erred in suspending the authorisation of the petitioner herein. On the contrary, it is submitted by the learned Government

Pleader for Civil Supplies that there is no illegality nor there exists any material infirmity in the impugned action of R.4, as such the order under challenge is not amenable for judicial review under Article 226 of the Constitution of India and that since the enquiry is pending before respondent No.4, no interference of this Court, under Article 226 of the Constitution of India, is warranted. It is further submitted by the learned Government Pleader that since the variations pointed out by R.4 in the impugned proceedings are excessive and high and not within the permissible limits, the petitioner herein is not entitled to any relief from this Court. It is also submitted that the order under challenge is appealable, as such the present writ petition is not maintainable.

5. I have heard the learned counsel for the petitioner and the learned Government Pleader.

6. Admittedly, in the present case on hand, the enquiry initiated by R.4 is pending and it is also evident from the impugned order that the petitioner herein submitted an explanation also in response to the show cause notice issued by respondent No.4. On taking into consideration the material available, this Court is of the opinion that the ends of justice would be served if the petitioner is permitted to avail the remedy of appeal to the Joint Collector, appellate authority, against the orders impugned in the writ petition.

6. Accordingly, the Writ Petition is disposed of, keeping it open to the petitioner to file an appeal against the order of suspension

passed by respondent No.4, dated 17.01.2017, which is impugned in the present writ petition, within a period of two (02) weeks from the date of receipt of a copy of this order. If any such appeal is filed within the stipulated time, the same be considered and appropriate orders be passed, in accordance with law, after giving notice and opportunity of hearing to the petitioner herein, within a period of three (03) months thereafter.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

Date:06.04.2017
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JUSTICE A.V. SESA SAI

