

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

W.P.No.35538 of 2016

ORDER:

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

“To issue a Writ, Order or Direction more, particularly one in the nature of Writ of Mandamus declaring the Proceedings in Rc.No.257/A, dated 3.10.2016 on the file of the 4th respondent is illegal, arbitrary, without power or jurisdiction and set aside the same.”

2. When the matter is called, it is represented by the learned counsel for the petitioner that the issue in the present writ petition is squarely covered by the Judgment of this Court in *Y.GOPAL v. JOINT COLLECTOR, ANANTHAPUR AND OTHERS*¹ and a copy of the same is placed on record along with writ petition as material paper. Paragraph No.4 of the judgment reads as follows:

“4. Unfortunately, many Tahsildars in the State do not appear to be aware of the above noted amendment and have been continuing to exercise their power under the second proviso to sub-clause (7) of Clause-5 of the Control Order. The present cases stand as an example for such exercise of power. Inasmuch as respondent No.3 is denuded of the power and jurisdiction to suspend authorization of fair price shop dealers in view of deletion of the second proviso to sub-clause (7) of Clause-5 of the Control Order, the impugned orders whereby respondent No.3 has suspended the petitioners' authorizations cannot be sustained and the same are accordingly set-aside. This order, however, does not preclude the licencing authority, namely, respondent No.2 to initiate appropriate proceedings at his option. The Ex-officio Secretary to the Government, Civil Supplies Department, is directed to issue a circular informing the Tahsildars in the State of the

¹ 2013 (5) ALD 128

amendment made to the Control Order vide G.O.Ms.No.38, dated 17-9-2012 with the direction to them not to exercise the power of suspension of fair price shop authorizations to avoid passing of such orders by the Tahsildars in future.”

3. In view of the above judgment and for the reasons recorded therein, this writ petition is allowed, setting aside the Proceedings in Rc.No.257/A, dated 03.10.2016. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

Date:01.02.2017
grk

A.V.SESHA SAI, J



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Dated 01.02.2017

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