

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

WRIT PETITION No.46185 OF 2016

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, questioning the inaction of the Revenue Divisional Officer, Kurnool-4th respondent herein in disposing of the enquiry proceedings.

2. Heard the learned counsel for the petitioners, learned Government Pleader for Civil Supplies for respondents 1 to 5 and Sri K.Rathanga Pani Reddy, learned counsel for respondent No.6.

3. According to the petitioners, they are the cardholders and residents of Indirampalli Village, Dhone Mandal, Kurnool District. Respondent No.6 is a fair price shop dealer of Shop No.59, Indirampalli Village, Dhone Mandal, Kurnool District. Pursuant to a Vigilance and Enforcement raid conducted on the shop of the 6th respondent on 19.03.2015, the respondent authorities pressed into service the provisions of the Essential Commodities Act, 1955 and the Control Order, 2008. Earlier when the Tahsildar, Dhone Mandal, Kurnool District, tagged on the cardholders of the subject shop to a neighbouring shop, the 6th respondent herein filed W.P.No.11801 of 2015 before this Court. This Court, by way of an order, dated 22.04.2015, suspended the said arrangement made by the Tahsildar. The Revenue Divisional Officer, by virtue of an order, vide proceedings No.B.334/2015, dated 15.04.2015, suspended the fair price shop authorization of the 6th respondent. Thereafter, against the order of suspension, the 6th respondent filed an appeal before the Joint Collector, Kurnool. The 6th

respondent filed W.P.No.18425 of 2015, questioning the inaction on the part of the Joint Collector, Kurnool, in passing orders on the said appeal filed against the order of suspension of fair price shop authorization. This Court, by way of an order, dated 24.06.2015, disposed of the said writ petition, giving liberty to the 6th respondent herein to submit his explanation within one week with a further direction to the Revenue Divisional Officer, Kurnool to complete the enquiry within a period of thirty days thereafter, duly observing the principles of natural justice, while observing that the appeal filed before the Joint Collector had become infructuous. Thereafter, the 6th respondent herein filed explanation on 30.07.2015 before the Revenue Divisional Officer and eventually, the Revenue Divisional Officer, by way of an order, dated 05.09.2015, cancelled the authorization of the 6th respondent. The Tahsildar, Dhoni Mandal, addressed a letter vide proceedings No.Rc.B/197/2015, dated 24.09.2015, to the Revenue Divisional Officer, Kurnool and the last three paragraphs of the said letter read as under:

“Basing on the above, the Ex.F.P.Shop dealer Sri.S.Shaiksha Vali being a permanent F.P.Shop dealer has to follow the guidelines, instructions and orders of the Government of Andhra Pradesh and the competent authority during maintaining the F.P.Shop. But in his explanation he himself admitted that he fell ill suddenly and went to Dhoni for treatment by keeping uneducated mother in the F.P.Shop and thus his negligence in dealing PDS System is proved and also has not produced any valid medical certificate for the fatal ill health. Further he has not explained why he has not maintained sales register for K.Oil, and about 8 undistributed Chandranna Sankranthi Kanuka Kits. It is learnt that there is practice of maintaining online acquitances for all the Essential

Commodities separately which are being distributed through F.P.Shops since 01/2015 in the mandal but the present dealer admitted that he has not supplied and maintained online acquaintance being the F.P.Shop is existing in rural. Further it is found that the authorization of the F.P.Shop dealer was expired by 31.03.2015.

In the above circumstances it is recommended for taking further action on the Ex.F.P.Shop dealer, Shop No.59 of Indirampallil H/o Chanugondla village of Dhone Mandal.

The report of the Mandal Revenue Inspector-II, Dhone is herewith enclosed for kind perusal.”

4. Subsequently, the 6th respondent herein filed W.P.No.38810 of 2015 before this Court, assailing the order of cancellation by the Revenue Divisional Officer. This Court by virtue of an order, dated 30.11.2015 allowed the said writ petition. Operative portion of the said order reads as under:

“Therefore, the Writ Petition is allowed; the impugned order dt.05.09.2015 is set aside; the 2nd respondent shall personally pay costs of Rs.2,000/- to the petitioner. However, this will not preclude the 2nd respondent from conducting a proper enquiry into the allegations made against the petitioner in the show cause notice dt.23.07.2015 and then passing a reasoned order in accordance with law after considering the explanation submitted by the petitioner.”

5. According to the petitioners, as many as, 112 cardholders including the petitioners herein submitted a representation to the Joint Collector, Kurnool, requesting to initiate fresh and proper enquiry and to issue final orders, terminating the fair price dealership of the 6th respondent herein. According to the petitioners, the said representation was followed by two more representations, dated 15.01.2016 and 17.02.2016. The grievance of the petitioners, in the present writ petition, is that despite receiving the said representations submitted by them along with

others, no action has been taken by the respondent authorities in the direction of initiating enquiry afresh against the 6th respondent.

6. According to the learned Counsel for the 6th respondent, the petitioners herein have no *locus standi* to maintain the present writ petition and the present writ petition is based on extraneous considerations and there are no *bona fides* in the writ petition.

7. On the other hand, on instructions, it is submitted by learned Government Pleader that the respondent authorities will take action and conclude enquiry against the 6th respondent, in accordance with law and requested this Court to grant some time for conclusion of the said enquiry.

8. In the considered opinion of this Court, the contention of the 6th respondent, as to the maintainability of the writ petition, cannot be sustained as the petitioners herein are admittedly cardholders and it cannot be said, by any stretch of imagination, that they are not the persons aggrieved. There is no dispute as regards the fact that the petitioners herein along with others submitted representations to the authorities pursuant to the orders of this Court in W.P.No.38810 of 2015.

9. Having regard to the submissions made by the learned counsel for the petitioners, the learned Government Pleader and the learned counsel for the 6th respondent, this Court deems it appropriate to direct the respondents herein to respond to the representations made by the petitioners on 23.12.2015,

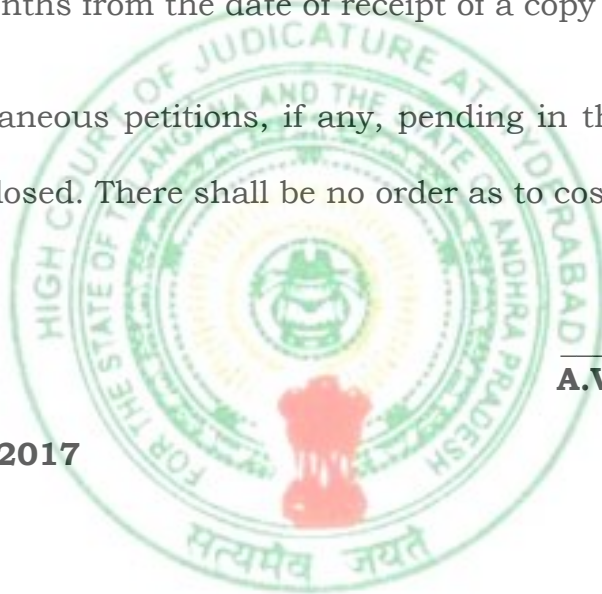
15.01.2016 and 17.02.2016 and to complete the enquiry against the 6th respondent within the time frame.

10. For the aforesaid reasons, the Writ Petition is disposed of, directing the respondents herein to take action on the representations of petitioners, dated 23.12.2015, 15.01.2016 and 17.02.2016 and to initiate proper enquiry against the 6th respondent and to pass final orders, in accordance with law, after giving notice and opportunity of hearing to all the stakeholders including the petitioners and the respondents, within a period of three (03) months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

MARCH 02, 2017
YVL

A.V.SESHA SAI, J



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



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Date: 02.03.2017

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