

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

WRIT PETITION No.5048 OF 2017

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the order passed by the Revenue Divisional Officer, Narasaraopet – 3rd respondent herein, vide proceedings in Rc.No.4075/2016-B, dated 17.12.2016, cancelling the fair price shop authorization of the petitioner.

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

3. According to the petitioner, he was appointed as fair price shop dealer of Shop No.0744011, Pamidipadu Village, Nuzendla Mandal, Guntur District, in the year 2013 and that he had been distributing essential commodities without any complaint either from the cardholders or from the authorities. It is further stated that the authorization of the petitioner is valid till 31.03.2018. Followed by a show cause notice and submission of explanation by the petitioner, the 3rd respondent passed the order of cancellation, which is the subject matter of the present Writ Petition.

4. It is submitted by the learned counsel for the petitioner that the order of cancellation, in the facts and circumstances

of the case, is highly unwarranted and violative of Article 14 of the Constitution of India and opposed to the very spirit and object of the Andhra Pradesh State Public Distribution System (Control) Order, 2008. It is further submitted by the learned counsel that the impugned order is also in total violation of the principles of natural justice. It is also submitted that the 3rd respondent without supplying the petitioner with a copy of enquiry report of the Deputy Tahsildar (Civil Supplies) dated 17.12.2016, placed reliance on it and cancelled petitioner's fair price shop authorization.

5. On the contrary, it is submitted by the learned Government Pleader that having regard to the gravity of the charges against the petitioner, the 3rd respondent is perfectly justified in cancelling the fair price shop authorization of the petitioner. It is further submitted that only after issuance of notice and affording reasonable opportunity of being heard to the petitioner, the 3rd respondent passed the order under challenge, as such, the complaint of the petitioner as regards the violation of the principles of natural justice is untenable.

6. There is absolutely no dispute with regard to the fact that in response to the notice of enquiry issued by the 3rd respondent on 21.10.2016, the petitioner attended the enquiry. It is required to be noted that the 3rd respondent called for a report from the Deputy Tahsildar (Civil Supplies) and pursuant to the same, the Deputy Tahsildar submitted

his report on 17.12.2016. The specific case of the petitioner in this Writ Petition is that without supplying him a copy of the said report, dated 17.12.2016, which was submitted after the date of enquiry, the 3rd respondent passed the impugned order and the same is unsustainable. It is also to be noted that as against the order of cancellation, which is impugned in the present Writ Petition, the petitioner filed a statutory appeal before the Joint Collector and Additional District Magistrate, Guntur, 2nd respondent, on 28.12.2016. Along with the appeal, he also filed stay application, seeking suspension of the order of cancellation, and according to the learned counsel for the petitioner, no orders have been passed by the 2nd respondent either on the appeal or on the stay application.

7. Having heard the learned counsel for the petitioner and the learned Government Pleader and taking into consideration the totality of the circumstances, this Court deems it appropriate to direct the 2nd respondent to pass appropriate orders on the appeal filed by the petitioner by fixing some timeframe.

8. For the aforesaid reasons, this writ petition is disposed of, directing the 2nd respondent to pass appropriate orders on the appeal filed by the petitioner on 28.12.2016, against the order of cancellation dated 17.12.2016, within a period of six weeks from the date of receipt of a copy of this order. It is

also made clear that if the said exercise is not completed within the time stipulated above, the petitioner shall be re-inducted as fair price shop dealer.

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

A.V.SESHA SAI, J

20.02.2017
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