

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

WRIT PETITION No.4600 of 2017

ORDER:

This Writ Petition is filed for the following relief:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in not passing any orders on the stay application filed along with the appeal dt.12.01.2017 seeking to set aside the orders passed by the 3rd respondent dt. 16.11.2016 passed in Rc.B720/2016, as being illegal, arbitrary and against to the principles of natural justice and consequently set aside the order dt. 16.11.2016 passed in Rc.B.720/2016.”

Followed by a show cause notice and submission of explanation by the petitioner, the Revenue Divisional Officer, Kurnool, Kurnool District, third respondent, *vide* order in Rc.B720/2016, dated 16.11.2016, suspended the fair price shop authorization of the petitioner under Clause 5(5) of the Andhra Pradesh State Public Distribution System (Control) Order, 2008.

It is submitted by the learned counsel for the petitioner that in the facts and circumstances of the case, the action of the third respondent in keeping the fair price shop authorization of the petitioner under suspension is highly unwarranted and unreasonable. It is further submitted by the learned counsel that

without taking into consideration the contents of the explanation offered by the petitioner in response to the show cause notice and without properly appreciating the material on record, the third respondent passed the order of suspension in a mechanical manner. It is also submitted by the learned counsel that though the petitioner has valid fair price shop authorization till 31.03.2017, the third respondent grossly erred in suspending the same.

On the other hand, it is contended by the learned Government Pleader that having regard to the facts and circumstances of the case, the third respondent is perfectly justified in keeping the fair price shop authorization of the petitioner under suspension and in the absence of procedural infirmity, the impugned action is not amenable to judicial review under Article 226 of the Constitution of India. It is further submitted that since the appeal is pending before the Joint Collector, Kurnool, second respondent, against the order of suspension passed by the third respondent, it is not open for the petitioner to maintain the present Writ Petition and the petitioner has to face enquiry before the appellate authority. Admittedly, appeal and stay application filed by the petitioner are pending consideration before the second respondent and no orders have been passed either on the appeal or on the stay application. The

charges framed in the show cause notice are also not severe in nature.

Having heard the learned counsel for the petitioner and the learned Government Pleader and taking into consideration the pendency of the appeal and the stay application before the second respondent, this Court deems it appropriate to direct the second respondent to pass appropriate orders on the appeal filed by the petitioner on 12.01.2017 against the order of suspension dated 16.11.2016, , after giving notice and opportunity to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. If the said exercise is not completed within the time so stipulated, the petitioner shall be permitted to operate the subject fair price shop.

With the above directions and observations, the Writ Petition is disposed of.

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

A.V.SESHA SAI, J

9th FEBRUARY, 2017.

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