

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

WRIT PETITION No.3889 OF 2017

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 action of the respondent No. 3 in issuing the Order in Proceedings Rc. No. 3801/2016/C, dated 07-11-2016 suspending the Authorization of petitioner's Fair Price Shop No.2, at 2-98, Parigi Village and Mandal, Anantapuramu District, as illegal, arbitrary and in violation of principles of Natural Justice and set-aside the same, consequently direct the 3rd respondent to restore the Authorization of petitioner's Fair Price Shop No.2, at 2-98, Parigi Village and Mandal, Anantapuramu District, as it is by supplying the essential commodities to her fair price shop to distribute the same to the ration card holders.”

2. Heard Sri Bollam Lingaiah Yadav, learned counsel for the petitioner and learned Government Pleader for Civil Supplies for the respondents.

3. According to the petitioner, she was appointed as fair price shop dealer for shop No.2 of Parigi village and Mandal, Anantapuramu District and running the same without any complaints either from the authorities or from the ration card

holders and that the authorization was valid upto 31.03.2016 and that she applied for renewal also.

4. Pursuant to the report submitted by the Tahsildar, Parigi Mandal, dated 24.10.2016 and verification of stocks by the Vigilance and Enforcement team, the Revenue Divisional Officer, Penukonda – 3rd respondent herein, issued a show-cause notice, pointing out variations in the stocks while calling upon the petitioner to show-cause as to why the authorization of the petitioner should not be cancelled. In response to the said show-cause notice, according to the petitioner, she submitted an explanation on 03.11.2016 and no final orders have been passed and the said enquiry is pending. The Revenue Divisional Officer, vide proceedings Rc.No.3801/2016/C, dated 07.11.2016, suspended the fair price shop authorization of the petitioner herein pending enquiry. Aggrieved by the said order of suspension, petitioner herein filed an appeal before the Joint Collector, Anantapuramu – 2nd respondent herein, on 11.11.2016 and along with the said appeal, she also filed an application for stay of operation of the suspension dated 07.11.2016. The grievance of the petitioner herein in the present writ petition is that no orders have been passed either on the stay application or in the main appeal preferred before the Joint Collector. In the above background, the present writ petition is filed.

5. According to the learned counsel for the petitioner, the very order of suspension passed by the Revenue Divisional Officer is unwarranted in the facts and circumstances of the case, as the variations pointed out in the present case are only small and they do not warrant the order of suspension.

6. On the contrary, learned Government Pleader for Civil Supplies, strenuously, submits that as the appeal is pending before the Joint Collector, Anantapuramu, so also, the stay application along with the same and there are variations in the stocks, the petitioner herein is not entitled for any relief from this Court under Article 226 of the Constitution of India, in the absence of any illegality or procedural infirmity in the impugned action.

7. Having heard the learned Counsel for the petitioner and the learned Government Pleader, this Court is of the considered opinion that the ends of justice would be served, if the Joint Collector – 2nd respondent herein, is directed to pass appropriate orders on the appeal dated 11.11.2016, said to have been filed by the petitioner herein by fixing some timeframe.

8. For the aforesaid reasons, writ petition is disposed of, directing the Joint Collector, Anantapuramu - 2nd respondent herein, to pass orders on the appeal dated 11.11.2016, filed by the petitioner herein, within a period of two months from

the date of receipt of a copy of this order. Till then, no permanent arrangement shall be made by the respondents. It is further made clear that if no orders are passed within the time stipulated above, petitioner herein shall be permitted to operate the subject fair price shop.

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

06.02.2017
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A.V.SESHA SAI, J

