

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

W.P.No.7111 of 2017

ORDER:

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

“To issue an appropriate order or direction more particularly a writ of Mandamus declaring the action of the 2nd respondent in cancelled the authorization of the petitioner's fair price Shop No.35, situated at K.P.Kunta village and Mandal, Anantapur District, vide proceedings Rc.No.1591/2016/B1, dated 14.12.2016 on flimsy grounds without considering the explanations submitted by petitioner and without following due procedure contemplated under law as illegal, arbitrary, unjust, contrary to the provisions of the Essential Commodities Act, 1955 and violation of principles of natural justice and set aside the impugned orders passed by the 2nd respondent vide proceedings D.Dis.No.1591/2016/B1, dated 14.12.2016 and consequently direct the respondents to release the Essential Commodities to the petitioners fair price shop No.35, situated at K.P.Kunta village and Gummagatta Mandal, Anantapur District and allow the petitioner to continue as Fair price shop dealer in the interest of justice”.

2. The order of cancellation of fair price shop authorization in respect of Shop No.35 of K.P. Kunta village and Mandal, Ananthapur district passed by the 2nd respondent-Revenue Divisional Officer, Kalayandurg vide proceedings Rc.No.1591/2016/B1 dated 14.12.2016 is under challenge in the present writ petition.

3. Followed by a show cause notice and submission of explanation by the petitioner herein, the 2nd respondent-Revenue Divisional Officer cancelled the authorization of the petitioner. A perusal of the order under challenge shows that in the show cause notice, the 2nd respondent framed as many as five charges against the petitioner herein. According to the learned counsel for the petitioner, the order of cancellation passed by the 2nd respondent is unsustainable, illegal, arbitrary and is not warranted in the facts and

circumstances of the case and since variation is very minute, the 2nd respondent ought not to have resorted to impugned action of cancellation of authorization.

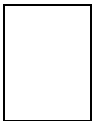
4. On the contrary, it is submitted by the learned Government Pleader that since the charges framed against the petitioner are grave in nature, no interference is warranted and without availing the alternative remedy of appeal before the Joint Collector, the present writ petition came to be filed directly before this Court under Article 226 of the Constitution of India.

5. Having heard the learned counsel for the petitioner and the learned Government Pleader for Respondents, this Court is of the considered opinion that ends of justice would be served if the petitioner is permitted to file appeal before the Joint Collector, Ananthapur for consideration of the same by the appellate authority in accordance with law.

6. For the aforesaid reasons, the writ petition is disposed of, keeping it open to the petitioner herein to file appeal before the Joint Collector, Ananthapur against the order passed by the 2nd respondent-Revenue Divisional Officer, Kalayandurg vide proceedings Rc.No.1591/2016/B1 dated 14.12.2016 within a period of two weeks from the date of receipt of this order and if any such appeal is filed within the time stipulated, the same be considered and appropriate orders be passed, as per law, as expeditiously as possible, preferably within a period of two months from thereafter. As a sequel, the Miscellaneous Petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 15.3.2017
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