

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.32027 OF 2017

ORDER:

Heard learned counsel for petitioner and learned Government Pleader for respondents.

The petitioner was appointed as an authorized fair price shop dealer in respect of shop No.533, Devender Nagar, Qutbullapur Urban, Medchal District. It appears that the shop was inspected on 23.01.2016 and certain irregularities were alleged to have been noticed. Based on the same, the proceedings under Section 6-A of the Essential Commodities Act, 1955 (The Act, for brevity) were initiated and simultaneously proceedings were taken up by the Revenue Divisional Officer. The Revenue Divisional Officer ultimately cancelled the authorization on 02.03.2016. Against the said order, the petitioner preferred an Appeal before the Joint Collector, Ranga Reddy District and when no orders were passed pending Appeal, he filed W.P.No.8093 of 2016 seeking suspension of the order of the Revenue Divisional Officer dated 02.03.2016. The writ petition was disposed of on 15.03.2016 staying operation of the order dated 02.03.2016 pending disposal of the Appeal by the Joint Collector. The order cancelling the authorization was later on revoked by the Revenue Divisional Officer and he passed an order on 21.04.2016 imposing penalty of Rs.10,000/- for the irregularities. Now the petitioner paid the said amount and is running the shop. While so, the second respondent in exercise of his power under Section 6-A of the Act passed an order on 18.08.2017 confiscating all the seized stock worth Rs.49,182/- in favour of the Government.

Challenging the said order dated 18.08.2017, the present writ petition is filed.

Learned counsel for the petitioner submits that when the report of the Assistant Supply Officer, Circle-I, Balanagar, Ranga Reddy District, dated 16.04.2016, submitted to the Revenue Divisional Officer disclosed that there were no major irregularities but only minor irregularities warranting departmental action and in view of the said report, when the Revenue Divisional Officer restored the authorization by imposing fine of Rs.10,000/-, an order of the second respondent is *ex facie* illegal. He further submits that the second respondent should have taken into consideration the report of the Assistant Supply Officer dated 16.04.2016 while passing the impugned order.

The learned Government Pleader fairly submits that in view of the report of the Assistant Supply Officer, the second respondent shall have to reconsider the earlier order.

In view of the same, the writ petition is allowed by setting aside the impugned order dated 18.08.2017 and remanding the matter to the second respondent for passing appropriate orders in accordance with law by duly taking into consideration the report of the Assistant Supply Officer dated 16.04.2016.

Consequently, miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

05.10.2017
pln