

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

WRIT PETITION No.3135 OF 2017

ORDER:

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

“to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, to declare the action of the 2nd respondent in issuing the show cause notice as well as the suspension order simultaneously vide Procs.Rc.No.7482/2016/D dt. 20-12-2016 without affording reasonable opportunity to the petitioner to submit his explanation, as being illegal, arbitrary, unilateral and unjust, and consequently set aside the same suspension order dt. 20-12-2016.”

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

3. According to the petitioner, he is the fair price shop dealer of shop No.24 of Chavali Village, Vermuru Mandal, Guntur District and he was appointed about 35 years back. Pursuant to a report submitted by the Mandal Revenue Inspector, Vemuru, under 6-A of the Essential Commodities Act, the Revenue Divisional Officer, Tenali, Guntur District, passed an order vide Rc.No.7482/2016-D, dated 20.12.2016, suspending the authorization of the petitioner pending enquiry, under clause 5(5) of the Control Order, 2008.

Simultaneously, while pointing out certain variations in the stocks, the 2nd respondent herein, issued a show-cause notice bearing Rc.No.7482/2016/D, dated 20.12.2016, calling upon the petitioner to show-cause as to why the authorization of the petitioner should not be cancelled. Responding to the said show-cause notice, petitioner herein submitted an explanation on 26.12.2016, denying the allegations contained in the show-cause notice. In the above background, the present writ petition is filed.

4. According to the learned counsel for the petitioner, the 2nd respondent issued the impugned show-cause notice and the suspension order on 20.12.2016, without being preceded by any sort of enquiry. It is also submitted by the learned counsel that for the last 35 years, petitioner has been distributing stocks without there being any complaint. It is further submitted that the alleged violation in Rice and Sugar occurred due to the failure of e-poss machine due to signal problem and so far as the violation of kerosene is concerned, the inspecting officials measured the ground stocks available in barrel and estimated the stocks by shaking the drum and noted as 30 litres, but the petitioner distributed the kerosene under the slips.

5. On the contrary, it is submitted by the learned Government Pleader that since the enquiry is pending with the Revenue Divisional Officer under the Control Order and

as the petitioner herein already submitted his explanation to the show-cause notice of cancellation, it is not open for the petitioner herein to agitate the validity of the impugned order in the present writ petition under Article 226 of the Constitution of India. It is further submitted by the learned Government Pleader that as the variations are high, the petitioner is not entitled for indulgence of this Court. It is also the submission of the learned Government Pleader that alternative arrangement has already been made.

6. There is absolutely no dispute as regards the fact that in response to the show-cause notice of cancellation issued by the Revenue Divisional Officer, Tenali, the petitioner herein submitted his explanation on 26.12.2016 and the enquiry is also pending before the Revenue Divisional Officer under the Control Order.

7. Having regard to the submissions made by the learned Government Pleader and taking into consideration the pendency of the enquiry with the Revenue Divisional Officer, this Court deems it appropriate to dispose of the writ petition with a direction to the Revenue Divisional Officer, to complete the enquiry and pass final orders by fixing some timeframe.

8. For the aforesaid reasons, this writ petition is disposed of, directing the Revenue Divisional Officer, Tenali, to pass final orders on the enquiry initiated, pursuant to the

show-cause notice bearing Rc.No.7482/2016/D, dated 20.12.2016, by taking into consideration the explanation offered by the petitioner and after giving notice and opportunity of hearing to the petitioner herein, within a period of one month from the date of receipt of a copy of this order. Till then, no permanent arrangement shall be made in respect of the subject fair price shop. If the said enquiry is not completed within the time stipulated above, the petitioner shall be permitted to lift the stock.

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

06.02.2017
SS

A.V.SESHA SAI, J

