

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION NO. 5790 OF 2017

ORDER:

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

“to issue any appropriate Writ, Order or direction, preferably a Writ of Mandamus declaring the action of the 2nd respondent in suspending the authorization of the petitioner's fair price shop No. 14, situated at R/o Bramhanapalli Tahanda, H/o Narasapuram Village and Beluguppa Mandal, Anantapur District, vide proceedings Rc.No. 2201/2016/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 Rc.No. 2201/2016/B1, dated 14.12.2016 and consequently direct the respondents to release the Essential Commodities to the petitioners fair price shop No. 14, situated at R/o Bramhanapalli Tahanda, H/o Narasapuram village and Beluguppa Mandal, Anantapur District and allow the petitioner to continue as Fair Price Shop dealer in the interest of

justice and pass such other order orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

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

3. Petitioner herein is a Fair Price Shop Dealer of Shop No. 14 of Bramhanapalli Tahanda H/o Narasapuram Village and Beluguppa Mandal, Anantapur District. A show cause notice-cum-suspension, vide proceedings Rc.No. 2201/2016/B1, dated 14.12.2016, was issued by the Revenue Divisional Officer, Kalyandurg, asking the petitioner to show cause as to why the authorization of the Fair Price Shop dealership of the petitioner should not be cancelled while pointing out certain lapses. While issuing the said order, the Revenue Divisional Officer also suspended the authorization, pending enquiry.

4. The information available before this Court further discloses that as against the said order of suspension passed by the Revenue Divisional Officer, petitioner filed an appeal/representation before the Joint Collector, praying for revocation of the said suspension order.

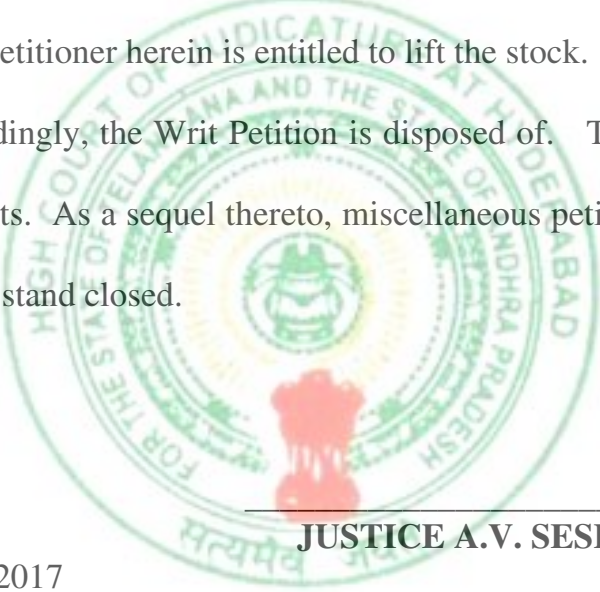
5. A perusal of the show cause notice dated 14.12.2016 shows that except in respect of Kerosene oil, the variations pointed out in respect of

other commodities are within the permissible limits. Learned counsel also placed on record a judgment of this Court dated 17.12.2014 in W.P.No. 38790 of 2014, along with Writ Petition as material papers. In the said judgment, this Court observed that initiation of proceedings in a mechanical manner without proper application of mind would not only waste the precious time of the Collectors, but it also results in serious harassment of the fair price shop dealers and at best, the Collectors can direct the appointing authority that if marginal variations are noticed during inspection, they should advise the dealers to be more careful in future.

6. While referring to the said judgment, it is the submission of the learned counsel for the petitioner that in the facts and circumstances of the case, the order of suspension is unwarranted. It is further submitted that the petitioner herein was appointed on compassionate grounds in the place of his father. On the contrary, it is submitted by the learned Government Pleader that though variations in respect of other commodities are within the permissible limits, the variation to the extent of Kerosene is beyond the permissible limit.

7. Since the appeal/representation filed by the petitioner against the order of suspension is pending before the Joint Collector, this Court feels it appropriate to direct the Joint Collector/4th respondent to dispose of the appeal/representation made by the petitioner herein on 21.1.2017, within a period of two months from the date of receipt of a copy of this order. Till then, the petitioner herein is entitled to lift the stock.

8. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, pending if any, shall also stand closed.



JUSTICE A.V. SESA SAI

DATE: 15.03.2017
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