

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 3605, 3638, 3662 and 3687 of 2018

COMMON ORDER:

W.P.Nos.3605 & 3638, 3662 and 3687 of 2018 are filed challenging the proceedings, dated 19.01.2018 and 17.01.2018, respectively, issued by respondent No.2-Revenue Divisional Officer, framing charges against the petitioners and suspending their authorizations in respect of Fair Price Shop Nos.09190018, 0918015, 0918019 and 0918020 respectively, situated in SPSR Nellore District.

The said charges read as under:

W.P.No.3605 of 2018:

Charge No.1: The fair price shop dealer hacked user name and password of Joint Collector and misused EPOS website with the help of Konduru Sreenivasaraju, District Coordinator, Visiontech and three others and activated YAP cards with Aadhar card numbers of other persons through VRO authentication fraudulently and draw rice and sugar of YAP cards holders themselves and diverted for unlawful gains and thus violated Clause 17 (b) (c) of Andhra Pradesh State Public Distribution system (Control) Order 2008.

Charge No.2: The Fair Price Shop Dealer hacked user name and password of Joint Collector and misused EPOS website with the help of Konduru Sreenivasaraju, District Coordinator, Visiontech and three others and activated YAP cards with Aadhar card numbers of other persons through VRO authentication fraudulently and a case was booked in the station house office, 1 town, Nellore in Crime No.04 of 2018 under Sections 420, 468 and 471 IPC and 66 (c) of IT Act and was arrested and judicial remanded for a period of 15 days and thus violated clause 2 (5) of Annexure –I to Andhra Pradesh State Public Distribution System (Control) Order 2008. (The authorization of a fair price shop dealer shall be liable for cancellation of suspension, as the case may be, in the fair price shop dealer is involved in any criminal case or when any case under Essential Commodities Act, 1955 or any other similar law is pending against him.)

W.P.No.3638 of 2018:

Charge No.1: The authorization of a fair price shop dealer shall be liable to cancellation or suspension, as the case may be if the fair price shop dealer is involved in any criminal case or when any case under Essential Commodities Act 1955 or any other similar law is pending against him. The Fair Price Shop dealer hacked user name and password of Joint Collector and misused EPOS website with the help of Konduru Sreenivasaraju, District Coordinator, Visiontech and three others and activated YAP cards with Adhar card numbers of other persons through VRO authentication fraudulently and a case was booked in the Station House Office, 1 Town, Nellore, in Crime No.04/2018 under Sections 420, 468 and 471 IPC and 66 (c) of IT Act and was arrested and judicially remanded for a period of 15 days and thus violated clause 2 (5) of Annexure to Andhra Pradesh State Public Distribution System (Control) Order 2008.

Charge No.2: That he as Fair Price Shop Dealer hacked user name and password of Joint Collector and misused EPOS website with the help of Konduru Sreenivasaraju, District Coordinator, Visiontech and three others and activated YAP cards with Aadhar card numbers of other persons through VRO authentication fraudulently and draw rice and sugar of YAP cards holders himself and diverted them for his unlawful gains and thus violated Clause 17 (b) (c) of Andhra Pradesh State Public Distribution System (Control) Order, 2008.

W.P.No.3662 of 2018:

Charge No.1: The authorization of a fair price shop dealer shall be liable for cancellation or suspension, as the case may be if the fair price shop dealer is involved in any criminal case or when any case under Essential Commodities Act 1955 or any other similar law is pending against him. The Fair Price Shop dealer hacked user name and password of Joint Collector and misused EPOS website with the help of Konduru Sreenivasaraju, District Coordinator, Visiontech and three others and activated YAP cards with Adhar card numbers of other persons through VRO authentication fraudulently and a case was booked in the Station House Office, 1 Town, Nellore, in Crime No.04/2018 under Sections 420, 468 and 471 IPC and 66 (c) of IT Act and was arrested and judicially remanded for a period of 15 days and thus violated clause 2 (5) of Annexure to Andhra Pradesh State Public Distribution System (Control) Order 2008.

Charge No.2: That he as fair price shop dealer hacked user name and misused EPOS website with the help of Konduru Sreenivasulu, District Coordinator, Visiontech and three others and activated YAP cards with Aadhar card numbers of other persons through VRO authentication fraudulently and draw rice and sugar of YAP cards

holders himself and diverted them for his unlawful gains and thus violated clause 17 (b) (c) of Andhra Pradesh State Public Distribution System (Control) Order, 2008.

W.P.No.3687 of 2018:

Charge No.1: The authorization of a fair price shop dealer shall be liable for cancellation or suspension, as the case may be if the fair price shop dealer is involved in any criminal case or when any case under Essential Commodities Act 1955 or any other similar law is pending against him. The Fair Price Shop dealer hacked user name and password of Joint Collector and misused EPOS website with the help of Konduru Sreenivasaraju, District Coordinator, Visiontech and three others and activated YAP cards with Adhar card numbers of other persons through VRO authentication fraudulently and a case was booked in the Station House Office, 1 Town, Nellore, in Crime No.04/2018 under Sections 420, 468 and 471 IPC and 66 (c) of IT Act and was arrested and judicially remanded for a period of 15 days and thus violated clause 2 (5) of Annexe to Andhra Pradesh State Public Distribution System (Control) Order 2008.

Charge No.2: That he as fair price shop dealer hacked user name and misused EPOS website with the help of Konduru Sreenivasulu, District Coordinator, Visiontech and three others and activated YAP cards with Aadhar card numbers of other persons through VRO authentication fraudulently and draw rice and sugar of YAP cards holders himself and diverted them for his unlawful gains and thus violated clause 17 (b) (c) of Andhra Pradesh State Public Distribution System (Control) Order, 2008.”

Learned counsel for the petitioners submits that respondent No.2 cannot decide the alleged violations committed by the petitioners and with respect to the charges framed against them, crimes have already been registered under the provisions of the Indian Penal Code. He further submits that respondent No.2 would not be able to undertake the meaningful enquiry. He further submits that in a large number of cases, suspension has been done with a view to cancel the authorizations.

Learned Government Pleader for Civil Supplies opposes the writ petitions and submits that it is only suspension pending enquiry and further, it has come to light a serious fraud, in which, there is involvement of dealers along with District Coordinator, Visiontech, the Agency entrusted with the job of providing E.Pass Machines and monitoring the systems. He also submits that inasmuch as the crimes have already been registered against the petitioners in terms of Clause 2 (5) of Annexure-I of the Andhra Pradesh State Public Distribution System (Control) Order, 2008 (for short 'the Control Order'), respondent No.2 is justified in suspending their authorizations.

Clause 2(5) of Annexure-I of the Control Order, 2008 reads as under:

“ **2. Further conditions to be observed by the authorized Fair Price Shop / nominated retailer / hawker:**

(5) The authorization issued under the order shall be liable for suspension or cancellation as the case may be, if the Fair Price Shop dealer / nominated retailer / hawker is involved in any criminal case or when any case under Essential Commodities Act, 1955 or any other similar law is pending against him/her.”

It is to be noted that this Court has already upheld the validity of Clause 2 (5) of Annexure-I of the Control Order. In the instant case, there is no dispute that crimes have already been registered against the petitioners. Further, there is no challenge to Clause 2 (5) of Annexure-I of the Control Order. In view of the

same, this Court is not inclined to interfere with the proceedings impugned.

Hence, the writ petitions are dismissed.

Miscellaneous petitions, if any, pending in these writ petitions shall stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:08.02.2018

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