

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5059 of 2018

ORDER:

This Writ Petition is filed challenging the order, dated 21.11.2017 passed by the second respondent – Collector (CS), Srikakulam, Srikakulam District, confirming the order, dated 19.02.2016 passed by the third respondent – Revenue Divisional Officer, Tekkali, Srikakulam District, keeping the authorization of petitioner under suspension with respect to Fair Price Shop No.20 at Lakkivalasa Village, Santhabommali Mandal, Srikakulam District.

It is the case of the petitioner that alleging certain irregularities in discharging the functions as a dealer of aforesaid fair price shop, she was issued a notice, to which, she submitted explanation. There upon, the third respondent passed order on 19.02.2016 keeping the petitioner's authorization under suspension, invoking Clause 5(5) of the Andhra Pradesh State Public Distribution System (Control) Order, 2008, read with the guidelines mentioned in G.O.Ms.No.4, dated 19.02.2011. The petitioner unsuccessfully challenged the same before the second respondent by way of filing appeal.

Sri V. Sudhakar Reddy, learned counsel for the petitioner, raises a question of law stating that the order, dated 19.02.2016 passed by the third respondent without specifying the period of suspension of the petitioner's authorization, is bad in law. In support of the same, he relies on the decision of this Court reported in **Palle Peeraiah v. District Collector, Warangal and others**¹, in which, this Court held that the suspension ordered as a measure of punishment cannot be indefinite, and thereby, submits that the order of suspension, dated 19.02.2016 as affirmed by the second respondent vide order, dated 21.11.2017 is liable to be set aside and the petitioner's authorization is required to be restored forthwith.

Learned Government Pleader for Civil Supplies appearing for the respondents opposes the Writ Petition.

Having considered the respective submissions, it is to be noted that the argument of the learned counsel for the petitioner with regard to the aspect that the suspension cannot be indefinite commends acceptance in view of the afore-cited decision of this Court (1 supra). However, as can be seen from the facts of the present case, the said ground has been raised by the petitioner for

¹ 2011(2) ALT 30

the first time before this Court. As the same was not raised by the petitioner in the appeal filed before the second respondent, he did not have an opportunity to advert to the same, which action of the second respondent cannot be found fault with.

In those circumstances and in view of the legal position that suspension even as a measure of punishment cannot be for an indefinite period, this Court is of the opinion that the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned order is hereby set aside, with the direction to the second respondent to consider the petitioner's appeal afresh and pass appropriate orders by taking into consideration the aforesaid legal position, within a period of four weeks from the date of receipt of a copy of this order.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

21st FEBRUARY, 2018.

Note: issue c.c. in one week.

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