HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

WRIT PETITON No.15865 of 2011

ORDER:

Heard Sri V. Ravi Kiran Rao, Learned Counsel for the petitioner and the Learned Government Pleader for Civil Supplies. The order, under challenge in this Writ Petition, is the proceedings dated 13.05.2011 cancelling authorisation of the petitioner's fair price shop No.76 of Nizamabad alleging contravention of certain provisions of the A.P. State Public Distribution (Control) Order, 2008.

Facts, to the limited extent necessary, are that the petitioner is a Fair Price Shop dealer of Shop No.76. She was entrusted with the charge of running fair price shop No.54 also, on the ground that the Fair Price Shop dealer of shop No.54 was kept under suspension. Subsequently, on a check being caused to shop No.54, certain stocks were found to be at variance, resulting in the fair price shop dealer of shop No.54 being placed under suspension, and in initiation of proceedings under Section 6-A of the Essential Commodities Act. Disciplinary proceedings were also initiated against both the petitioner, and the Fair Price Shop Dealer of shop No.54, and a notice dated 11.03.2011 was issued calling upon her to show cause why the entire security deposit should not be forfeited, and her authorisation should not be suspended/cancelled. In her reply to the show cause notice dated 21.03.2011, the petitioner stated as under:

"(1). Due to certain allegations, the dealership of Smt. K. Neelavathi, F.P. Shop No.54, Nizamabad (U) was suspended and the shop is kept in charge to me.
(2). Since here suspension of the Shop No.54, whenever I have approached the e-seva for remitting my cash to get the R.Os, it was brought to my notice that Smt. K. Neelavathi, F.P. shop No.54, Nizamabad (Suspended) has already remitted the amount

and taken away the R.Os. The fact was also brought to notice in Tahsil Office several times.
(3). So far I have not remitted cash, not taken R.Os. from the e-seva, not lifted stocks in respect of Shop No.54.
(4). I can be observed with reference to R.Os. that the receipt of stocks sent from M.L.S. Point was acknowledged by Smt. K. Neelavathi and I never acknowledged the receipt of stocks.
(5) I have not run the shop No.54 as Incharge during the period of suspension, and I am not responsible for the improper distribution/variation in the stocks.
(6) During the visit of shop on 06.12.2010, the inspecting of officers got opened the shop No.54, through Smt. K. Neelavathi, which clearly established that even the lock and keys were maintained by Smt. K. Neelavathi."

She requested that, in view of the above, the charge levelled against her may be dropped. The fact that the petitioner submitted a reply to the show cause notice is not in dispute and has, in fact, been referred to in the impugned proceedings dated 13.05.2011. Yet the Revenue Divisional Officer cancelled her authorisation holding:-

"The explanation submitted by the dealer of Fair Price Shop No.76 and Incharge of Fair Price Shop No.54 is not at all convincing. Whenever an order is issued by the Tahsildar or appointing authority it is to be obeyed and simply explaining that she did not run the Fair Price Shop as inchrge during the period of suspension and not responsible for the improper distribution/variations in the stock does not suffice. That the suspended dealer is remitting the amount at e-Seva and R.Os are taken to Godown and the stock is acknowledge by the dealer is after thought. Just bringing the matter to the notice of Tahsil Office for several times is not justified. The inchrge dealer herself agreeing that on 06.12.2010 the inspecting officers got opened the Fair Price Shop No.54 through Smt. K. Neelavathi son which clearly established that even the lock and key were maintained by Smt. K. Neelavathi (suspended Dealer of Fair Price Shop No.54)."

The petitioner has categorically stated that she did not secure any Release Orders for shop No.54, and despite her repeated representations the authorised Fair Price Shop Dealer of shop No.54 was permitted to continue to operate the fair price shop though she had been placed under suspension. The finding recorded by the Revenue Divisional Officer, that bringing the matter to the notice of the Tahsil office several times was not justified and remitting of the amounts and seeking Release Orders of the suspended dealer was an afterthought, are perverse. It is not as if the Revenue Divisional Officer has disbelieved the statement of the petitioner that she did not secure any Release Order, nor has he held that the petitioner had secured Release Orders on payment of the prescribed fees. Once it is admitted that the petitioner had made several complaints, regarding failure of the officials to handover shop No.54 to her and it is not disputed that the Fair Shop Dealer of shop No.54 was permitted to continue operations despite her being placed under suspension, it is difficult to understand what more the petitioner could have done in this regard. It was for the authorities to have ensured that shop No.54 was physically handed over to the petitioner to enable her to run the shop. As the irregularities found in shop No.54 were committed by the suspended dealer of shop No.54, and the petitioner had no connection with the operations of the said shop, the order, impugned in the Writ Petition, is liable to be, and is accordingly, set aside.

Pursuant to the interim order, passed in WPMP No.19008 of 2011 dated 13.06.2011, the impugned order of cancellation of authorisation was suspended. Since the impugned order is now set aside, the petitioner shall be permitted to carry on operations in shop No.76, subject to any other proceedings pending against her. The Writ Petition is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Date: 23.02.2018

MRKR