

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO. 5939 OF 2018

ORDER:

This Writ Petition is filed seeking a Mandamus to declare the action of the 3rd respondent, Revenue Divisional Officer, in cancelling the authorization of the petitioner's Fair Price Shop No.35 vide proceedings R.C.K6/974/2015 dated 10.11.2015 as illegal and arbitrary and to direct the respondents to release the essential commodities to the petitioner's Fair Price Shop.

2. It is the case of the petitioner that on account of certain allegations, after enquiry, the authorization of Fair Price Shop granted in his favour was cancelled by the 3rd respondent vide order dated 10.11.2015. Against the said order, the petitioner preferred an appeal before the Joint Collector i.e., the 2nd respondent, who vide order dated 29.7.2017, having found that due procedure was not followed in passing the said order dated 10.11.2015, remanded the matter to the 3rd respondent for fresh consideration. The 2nd respondent had also directed the 3rd respondent to re-examine the case giving reasonable opportunity to the petitioner and to pass appropriate orders. As on today, no notice has been issued to the petitioner calling for fresh enquiry.

3. It is the submission of the learned counsel for the petitioner that consequent upon the remand by the 2nd respondent, the order of cancellation does not survive any longer and in those circumstances, the petitioner would be entitled to distribute the scheduled commodities as per the authorization granted in his favour.

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

5. Having considered the respective submissions, it is to be noted that the facts are not disputed. The net result of disposing of the appeal by the 2nd respondent would be that the order originally passed by the 3rd respondent is no longer surviving. Though it is not stated by the 2nd respondent, in express terms, that the order dated 10.11.2015 is set aside, the fact that the matter has been remanded for re-examination with a direction to the 3rd respondent to pass orders after providing reasonable opportunity to the petitioner, leaves no doubt that the order dated 10.11.2015 has already been set aside. In those circumstances, once the order dated 10.11.2015 cancelling the authorization granted in favour of the petitioner is set aside, he shall be deemed to be an authorized dealer under the relevant control order and the right of the petitioner to distribute the scheduled commodities cannot be

denied as long as the authorization standing in his name is neither suspended nor cancelled.

6. In those circumstances, the Writ Petition is allowed with a direction to the 3rd respondent to issue the scheduled commodities to the petitioner for further distribution in accordance with law. However, it is made clear that allowing of this Writ Petition shall not be construed as placing an embargo on the 3rd respondent from passing final orders subsequent to the remand made by the 2nd respondent.

Pending miscellaneous petitions, if any, shall also stand closed. No order as to costs.

Date: 23.2.2018

KPM



CHALLA KODANDA RAM, J