

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.9306 OF 2018

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Civil Supplies (A.P.) appearing for the respondents.

2. In the present writ petition, challenge is to the order passed by the Revenue Divisional Officer, Gurazala, Guntur District, respondent No.2 herein, *vide* proceedings Rc.No.547/2017-E, dated 06.03.2018.

3. By way of the said proceedings, the R.D.O. cancelled the authorization of the petitioner herein in respect of fair price shop No.66 of Panditivaripalem Village of Piduguralla Mandal, Guntur District. On the basis of the proceedings under Section 6A of the Essential Commodities Act, 1955 (for short, "the Act") initiated against the petitioner herein, respondent No.2 herein issued a show cause notice asking the petitioner to submit explanation with regard to the allegations indicated therein. In response to the said show cause notice, petitioner submitted explanation on 14.02.2018. Thereafter, respondent No.2, by way of an order, dated 06.03.2018, cancelled the authorization of the petitioner herein. This writ petition challenges the validity and the legal sustainability of the said order.

4. According to the learned counsel for the petitioner, the impugned action is highly illegal, arbitrary and violative of Articles 14 and 19(1)(g) of the Constitution of India besides being opposed

to the instructions of the Commissioner of Civil Supplies, Andhra Pradesh, Hyderabad *vide* CCS Memo.No.21/100/2015-AD1.PP-CCS, dated 28.09.2015. It is further submitted by the learned counsel that the proceedings under Section 6-A of the Act cannot be the basis for respondent No.2 to resort to the impugned action.

5. On the other hand, it is submitted by the learned Government Pleader that there is no illegality nor there exists any infirmity in the impugned action and in the absence of the same, the present writ petition cannot be maintained under Article 226 of the Constitution of India. It is further submitted that the present writ petition is also not maintainable in view of the availability of alternative remedy of appeal to the Joint Collector and that without availing the same, the present writ petition has been filed directly before this Court under Article 226 of the Constitution of India.

6. The memo *vide* CCS Memo.No.21/100/2015-AD1.PP-CCS, dated 28.09.2015, issued by the Commissioner of Civil supplies, A.P., Hyderabad is placed on record by the writ petitioner along with the writ petition as a material paper. The Commissioner of Civil Supplies issued the said memo in compliance of the orders of this Court, giving certain guidelines to the authorities, functioning under the Act. Instruction “q” of the said memo reads as under:

“q) The proceedings under Section 6-A of the E.C. Act, 1955 are separate as it empowers to decide as to whether the seized commodities require for confiscation or other wise and no order of suspension / cancellation of authorization be issued based on the 6-A report.”

7. While referring to the above, it is submitted by the learned counsel for the petitioner that the impugned action cannot be sustained in view of the above instruction.

8. Since the order of cancellation, which is impugned in the present writ petition, is appealable before the Joint collector, this Court is of the considered opinion that the ends of justice would be met if the petitioner is permitted to avail the said remedy by giving sometime and while making some interim arrangement in the meanwhile.

9. For the aforesaid reasons, the Writ Petition is disposed of, keeping it open for the petitioner herein to file an appeal before the Joint Collector, Guntur, Guntur District, respondent No.4 herein, within a period of three (3) weeks from today and if any such appeal is filed, the same be considered and appropriate orders be passed strictly in accordance with law. Till the said appeal is disposed of, the order impugned shall stand suspended. There shall be no order as to costs.

10. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.V.SESHA SAI

Date : 21.03.2018
AMD

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI



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Date: 21.03.2018

AMD