

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.267 OF 2016

DATED : 28.02.2018

Between :

A. Yogeswara Reddy S/o.Jaya Rami Reddy,
Aged about 47 yrs, Occu : Fair Price Shop Dealer
of Shop No.26, Krishnapuram Village, Kodumur Mandal,
Kurnool District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Civil Supplies Department,
Secretariat, Hyderabad & others.

.. Respondents



This court made the following :

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ORDER:

Heard learned counsel for the petitioner and learned Government pleader for Civil supplies. With the consent of both counsel, the writ petition is disposed of finally.

2. Petitioner is a fair price shop dealer of Shop No.26 of Krishnapuram Village, Kodumur Mandal, Kurnool District. Disciplinary action was initiated against him by serving a show cause notice dated 12.04.2013. In the show cause notice it was alleged that he has drawn rice and other scheduled commodities to sixteen non-existing house-hold supply card holders, whose names are mentioned in the show cause notice, in violation of Para 2 (1) (f) of Annexure-1 of Clause 19 of the A.P. State Public Distribution System Control (Order), 2008. Petitioner filed his explanation. Rejecting the explanation and holding that the charge is proved, by order dated 10.05.2013, authorization granted to petitioner was cancelled by the Revenue Divisional Officer, Kurnool. Aggrieved thereby, petitioner preferred appeal to the Joint Collector, Kurnool. By order dated 23.09.2015, the Joint Collector, affirmed the decision of RDO and dismissed the appeal. Aggrieved thereby this writ petition is filed.

3. This Court by order dated 05.01.2016 granted interim direction and in terms of the interim order granted, petitioner is operating the fair price shop dealership.

4. Para 2 (1) (f) referred to in the show cause notice and the final order mandates that the dealer should not purchase Public

Distribution System rice from the beneficiaries, nor draw Public Distribution System rice of any non-existing/ineligible persons nor possess rice coupons illegally. Dealer should not indulge in selling the Public Distribution System rice to local traders or rice millers.

5. It is not in dispute that 16 persons whose names were mentioned in the show cause notice were issued house hold cards by the competent authority and their names were included in the list furnished to the petitioner. If that is so, it cannot be said that petitioner was drawing rice and other commodities to non-existing/ineligible persons. It is not placed on record to show that these cards were cancelled, petitioner was accordingly informed but petitioner continued to draw the provisions against such cards. Therefore, *per se*, the charge is not valid, and the clause mentioned in the show cause notice is not attracted.

6. In the final order cancelling the authorization, the competent authority proceeds further to hold that delivering stocks to anybody or whoever approaches fair price shop dealer on behalf of the card holder is in violation of Condition 8 of the authorization issued. Condition 8 mandates that the dealer should make entries of commodities supplied by him, in the supply card of the consumer indicating the exact quantity delivered and the date of delivery in the space provided in the supply card. Thus, this condition does not prescribe that the stock should be delivered only to the card holder or card holder be physically present to receive the provisions, to allege that the said condition is violated and to penalize the petitioner.

7. As fairly submitted by learned Government pleader, the cards were issued by the competent authority and only for the first time the cards obtained by bogus persons came to light and on conducting enquiry, those cards were cancelled. Thus, earlier to taking action against petitioner the cards were not classified as bogus and petitioner was never appraised that those 16 cards were bogus and that he was asked not to issue rice and other commodities to them.

8. Thus, the disciplinary action taken against the petitioner resulting in cancelling the authorization is *ex-facie* illegal and the same is liable to be set aside. Accordingly, the Writ Petition is allowed. Pending Miscellaneous petitions stand closed.

9. Before parting with this case, I deem it necessary to observe as under. It appears from the record that certain false house hold cards were obtained, probably in active collusion with the local level officers and based on those cards, ration provisions were claimed. Therefore, the Government should take appropriate remedial steps to ensure that no such false claims can be made and should appropriately warn the fair price shop dealers in ensuring supply of ration commodities to the genuine house hold card holders and if necessary by incorporating appropriate conditions in the authorisation issued to them and in the standing orders.

28th February 2018
Rds

P.NAVEEN RAO,J