

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.22158 and 22190 of 2017

COMMON ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Civil Supplies appearing for respondents.

2. In both these cases, petitioners assail orders dt.31-05-2017 and 25-05-2017 passed by the Joint Collector, Guntur confirming orders dt.15-11-2016 and 14-12-2016 of the Revenue Divisional Officer, Narsaraopet.

3. Petitioners in both the cases are fair-price-shop dealers. Show cause notices had been issued to both of them on 27-04-2016 and 14-06-2016 making certain allegations against them. The petitioners gave explanations thereto on 18-06-2016 to the Revenue Divisional Officer (RDO). Thereafter, the authorization of the petitioners were suspended pending enquiry on 19-07-2016.

4. Petitioners filed W.P.Nos.27117 and 27133 of 2016 in this Court challenging the same. The Court passed orders on 12-08-2016 directing the RDO, Narsaraopet to complete the enquiry pending against them after giving reasonable opportunity to them to put forth their defence as expeditiously as possible preferably within two months from the date of its order.

5. Thereafter, notices were given to the petitioners on 17-09-2016 and 06-09-2016 respectively fixing the dates of hearing as 23-09-2016 and 05-10-2016. Petitioners contend that though both of them tried to meet the RDO on that day for the personal hearing, he was not present and having waited for some time, they left. This fact is disputed by the respondents.

6. The RDO, after the date fixed for hearing of the petitioners was over, appears to have called for report from the Assistant Supply Officer, Narsaraopet, who submitted report on 13-11-2016 and 10-12-2016, after collecting statements of some of the card holders adverse to each of the petitioners and relied on the said report of the Assistant Supply Officer to cancel the fair-price-shop dealership of both the petitioners.

7. This was challenged by both the petitioners by way of appeal before the Joint Collector, Guntur, who confirmed the orders of the RDO by orders dt.31-05-2017 and 25-05-2017 respectively.

8. The principal contention of the learned counsel for the petitioners is that not only the petitioners were denied personal hearing by the RDO in violation of the order dt.12-08-2016 in W.P.No.27133 of 2016, the RDO cannot rely on material collected behind the back of the petitioners i.e. the report of the ASO, Narsaraopet, and cancel the fair-price-shop dealership of the petitioners.

9. Learned Government Pleader for Civil Supplies appearing for the respondents does not dispute the fact that the report of the ASO, Narsaraopet, was procured by the RDO after the date fixed for personal hearing of the petitioners was over. It is also not denied by the learned Government Pleader that the said report was not given to the petitioners and the persons whose statements are referred to in the said report were not produced in the enquiry before the RDO.

10. Thus, it is clear that material collected behind the back of the petitioners was relied upon by the RDO to cancel the petitioners' fair-price-shop dealership authorization.

11. Even though a specific contention was raised before the Joint Collector by both the petitioners that the RDO could not have placed reliance on the report of the ASO, Narsaraopet, while passing the impugned order, the Joint Collector did not advert to the said contention and confirmed the orders of the RDO. In my considered opinion, the respondents could not have placed reliance upon material collected behind the back of the petitioners and cancelled their fair-price-shop dealership licences on the said ground.

12. Therefore, the impugned orders passed by both the Joint Collector and the RDO are set aside; the matter is remanded back to the RDO to furnish to the petitioners copies of the reports of the Assistant Supply Officer, Narsaraopet, give a personal hearing to them; consider their objections to said reports; and pass fresh orders

This exercise shall be completed within three months from the date of receipt of a copy of this order.

13. Therefore both the Writ Petitions are allowed. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 21-08-2018
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