

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.31774 of 2018

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to issue a Writ of Mandamus declaring the action of the 3rd respondent in suspending the F.P. Shop dealership of the petitioner in relation to F.P. Shop No.1285080 of Anantapur, *vide* proceedings in RC.D1CS/2103/2018, dated 21.08.2018, as illegal, arbitrary and contrary to the Andhra Pradesh State Public Distribution System (Control) Order, 2008, and the principles of natural justice and to direct the respondents to restore the subject F.P. Shop authorization of the petitioner by setting aside the afore-said proceedings.

I have heard the submissions of the learned counsel for the petitioner and of the learned Government Pleader for Civil Supplies appearing for the respondents.

By the impugned show cause notice-cum-suspension order, the 3rd respondent – Revenue Divisional Officer, while suspending the authorization held by the petitioner for the subject FP shop, pending enquiry for passing final orders, directed the petitioner to offer her explanation within seven days from the date of receipt of the show cause notice-cum-suspension order and directed the Tahasildar, Anantapur, to make alternate arrangements for distribution of essential commodities without causing

inconvenience to the cardholders and report compliance. Aggrieved thereof, the petitioner filed this writ petition, *inter alia*, contending that as per the Control Order and circular of the Government, the Revenue Divisional Officer is not the competent authority and, therefore, he has no jurisdiction to pass the impugned suspension order and that, on that ground alone, the writ petition deserves to be allowed.

Learned Government Pleader for Civil Supplies, while pointing out to the charge mentioned in the impugned show cause notice-cum-suspension order, *inter alia*, contended that the violations are serious in nature and that, in the facts and circumstances, the Revenue Divisional Officer, who was the competent authority earlier to deal with the matter, is justified in issuing the show cause notice-cum-suspension order.

However, the legal position that he is not the competent authority and that he is not having jurisdiction to issue the show cause notice-cum-suspension order, which is impugned in the writ petition, is not in dispute.

In that view of the matter, the Writ Petition is allowed as prayed for. However, this order shall not preclude the competent authority from proceeding further afresh in the matter, if it is necessary and if the authority so desires. It is needless to say that the competent authority is at liberty to do the necessary exercise as expeditiously as possible. In the event any such exercise is initiated, it is needless to state that the said competent authority

shall give an opportunity of hearing to the petitioner and follow the procedure established under law.

As a sequel, the miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

M.SEETHARAMA MURTI, J

05.09.2018

Note: Issue CC by tomorrow

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