

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No. 28847 OF 2010**

**ORDER :**

Petitioner is the authorised fair price shop dealer in respect of Mandipally Village. It is stated, based on the complaint of the villagers on 12.07.2009 at about 10.00 p.m. stating that the son of the petitioner was caught with 60 litres of kerosene while transporting the same on motor bike and was handed over to the Police Station, Marikal, on 13.07.2009, the ARI inspected the fair price shop and found variation of 63 litres of kerosene oil apart from variation of 6 kgs of PDS rice. It is also stated, the said stock was seized, proceedings were initiated under Section 6-A of the Essential Commodities Act and the show cause notice dated 25.07.2009 was also issued to the petitioner. Interim disposal of the seized stock was made. The petitioner submitted reply on 29.09.2009, but without considering the same, the 3<sup>rd</sup> respondent cancelled the authorisation of fair price shop dealership on 05.10.2009. The seized stock was also confiscated by order dated 07.09.2009 under Section 6-E of the Act. The petitioner filed the Appeal before the Appellate Authority, contending that on the date of inspection though he produced 31 coupons evidencing delivery of kerosene, the ARI refused to look into the same. However, the 2<sup>nd</sup> respondent - Joint Collector, after consideration of the explanation, recorded a finding that even before him, no such material was placed and thus, confirmed the order of the 3<sup>rd</sup> respondent – Revenue Divisional Officer cancelling the authorisation. The Revisional Authority also confirmed the same.

Learned counsel for the petitioner submits that all the Authorities failed to consider the material on record particularly the one relating to delivery of kerosene under 31 coupons, hence, he prays for remanding the matter to the Primary Authority for consideration.

Heard learned Government Pleader for Civil Supplies.

Having regard to the scope of *mandamus*, in the facts of the present case, it may be noted that all the Authorities consistently recorded a finding that in spite of opportunity given to the petitioner, she had failed to file material evidencing delivery of kerosene, as alleged, under 31 coupons. On the other hand, the Authorities have taken note of the fact that it was the petitioner's son by name Sri Pavan, who was caught red-handed by the villagers transporting kerosene at 11.00 P.M. This aspect of the matter was not denied by the petitioner anywhere in the explanation submitted before any of the Authorities. There is also no explanation forthcoming from the petitioner as to under what circumstances, her son came to be in possession of 60 litres of kerosene.

In the light of the finding of fact recorded by the Authorities and there being no legal infirmity with respect to the orders passed by the Primary as well as Appellate Authorities, there is no merit in the Writ Petition and it is accordingly, dismissed. No costs.

The miscellaneous Applications if any shall stand closed.

**CHALLA KODANDA RAM, J**

28<sup>th</sup> October 2019

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