APHC010064202025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3311]
(Special Original Jurisdiction)

MONDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE MS JUSTICE B S BHANUMATHI

WRIT PETITION NO: 3426/2025

Between:

Dakka Nageswara, **...PETITIONER**

AND

The State Of Andhra Pradesh and Others **...RESPONDENT(S)**

Counsel for the Petitioner:

1. PAPUDIPPU SASHIDAR REDDY

Counsel for the Respondent(S):

1. GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

The writ petition is filed under Article 226 of Constitution of India seeking the following relief:

> "…to issue an appropriate writ, order or direction under Article 226 of constitution of India more particularly one in the nature of Writ of Mandamus declaring the proceedings in Ref.No.C/1099/2024, dated 29.12.2024 issued by the respondent No.3 as arbitrary and illegal, contrary objectives of the provisions of the Andhra Pradesh State Targeted Public Distribution System (Control) Orders, 2018 and contrary to the well-established legal principles apart from being violative of the fundamental and Constitutional rights guaranteed to me under Articles 21 and 300-A of the Constitution of India and consequently set aside the same and drop all the further proceedings in pursuance of the same and pass…"

02. The petitioner is a permanent dealer of fair price shop No.1150038, Door No.3/68, Brujupalli II, Gundlacheruvu Village, Galiveedu Mandal, Y.S.R. District.

03. The learned counsel for the petitioner submitted that the impugned order vide Ref.No.C/1099/2024, dated 29.12.2024, suspending the dealership of the petitioner was passed by the 3rd respondent, based on a report of Tahsildar/4th respondent dated 04.12.2024 under Section 6-A of Essential Commodities Act, 1955, in violation of law. He placed reliance on the decision of this High Court in W.P.No.500 of 2020, dated 08.01.2020, wherein at para Nos.9 & 10, it is held as follows:

“9. When Clause 20(i) of Control Order, 2018 specified that a separate report is required to be filed by inspecting officer for initiation of disciplinary action against petitioner, in the absence of any such separate report, as contemplated under Section 20(i) of Control Order, 2018, passing order based on report under Section 6-A of E.C Act is impermissible under law, since it is deviation from Clause 20(i) of Control Order, 2018. In the written instructions placed on record by learned Assistant Government Pleader for Civil Supplies, he submitted that Tahsildar, Santhabommali has also submitted another report under Clause 20(i) of Control Order, 2018, before Joint Collector, Srikakulam District, requesting to initiate necessary disciplinary action against Fair Price Shop dealer for the irregularities committed by him in distribution of stock to card holders. But this fact was not reflected in the order impugned in the writ petition on the contrary, it indicates that based on report referred in the subject of order, the impugned order is passed. Copy of report is also not placed on record by learned Assistant Government Pleader for Civil Supplies to support his contention that a separate report is submitted as required under sub clause (i) of Clause 20 of Control Order, 2018. The order impugned in the writ petition refers only one report submitted by Tahsildar, Santhabommali. Respondents cannot substitute with another report in the place of earlier report, by submitting written instructions. The alleged second report under Clause 20(i) of Control Order, 2018 is not referred in the order impugned in the writ petition. Therefore, it is difficult to accept the contention of learned Assistant Government

Pleader for Civil Supplies that proceedings were initiated, based on another report submitted under Clause 20(i) of Control Order, 2018, as copy of it is not placed on record, except written instructions. Hence, I find that passing order, based on the report filed by Tahsildar, Santhabommali for initiation of proceedings under Section 6-A of E.C Act as well as initiation of disciplinary action against the petitioner, without filing a separate report as required under Clause 20(i) of Control Order, 2018 is a serious illegality and contrary to Control Order, 2018.

10. As per Clause 'q' of Circular Memo issued by Commissioner, Civil Supplies in No.21/100/2015-AD.1 PP&CCS dated 28.09.2015, proceedings under Section 6-A of E.C Act are separate, as it empowers to decide as to whether the seized commodities are liable for confiscation or otherwise and no order of suspension/cancellation of authorization to be issued, based on report. In view of memo and requirement under Clause 20(i) of Control Order, 2018, in the absence of any separate report for initiation of disciplinary action against the dealer, the order passed by second respondent cannot be sustained, consequently the same is liable to be set aside, declaring the same as illegal and contrary to Clause 20 (i) of Control Order, 2018."

He further submitted that explanation was also submitted to the concerned authority to the show cause notice dated 18.12.2024, issued to the petitioner, however, the same has not been duly considered.

04. The learned Assistant Government Pleader for Civil Supplies represented that he had no instructions.

05. Perused the show cause notice as well as the impugned proceedings shown in the reference No.1 of the report of the 4th respondent issued under Section 6-A of the Essential Commodities Act. Since the same cannot be the basis for taking disciplinary action as held by this High Court in the above said case, the impugned order is *ex facie* illegal and liable to be set aside.

06. In the result, the writ petition is allowed by setting aside the impugned order dated 29.12.2024.

There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

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JUSTICE B.S.BHANUMATHI

Date: 10.02.2025
NSM

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HON'BLE Ms. JUSTICE B.S.BHANUMATHI

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NSM