IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF MARCH

TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

WRIT PETITION NO: 22983 OF 2024

Between:

S Gangadri, S/o Chinna Gangappa, Hindu, Aged about 54 years, Occ Fair Price Shop Dealer, Shop No. 1246029, Eddulavaripalli, H/o Kondakamarla Village of O.D. Cheruvu Mandal. Sri Sathya Sai District.

...Petitioner

AND

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Civil Supplies Department, Secretariat Buildings, Velagapudi, Amaravathi.
2. The Collector and District Magistrate, Sri Sathya Sai District, Puttaparthi.
3. The Joint collector and Additional District Magistrate, Sri Sathya Sai District, Puttaparthi.
4. The Revenue Divisional Officer, Puttaparthi, Sri Sathya Sai District.
5. The Tahsildar, O.D. Cheruvu Mandal Sri Sathya Sai District.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue, a writ of Mandamus, declaring the action of the 4th respondent in passing orders in proceedings Rc. No. D/336/2024 dated 20.09.2024 suspending the petitioner Fair Price Shop No.1246029,

Eddulavaripalli, H/o Kondakamarla Village of O.D. Cheruvu Mandal, Sri Sathya Sai District as illegal, arbitrary, non application of mind, unjust and violative of Articles 14, 19 (1) (g) and 21 of the Constitution of India and consequently direct the respondents to supply the Essential Commodities to the petitioner Fair Price Shop No. 1246029, Eddulavaripalli H/o Kondakamarla Village of O.D. Cheruvu Mandal, Sri Sathya Sai District.

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the proceedings Rc.No.D/336/2024 dated 20.09.2024 issued by the 4th respondent duly directing the respondents to supply the Essential Commodities to the petitioner Fair Price Shop No.1246029, Eddulavaripalli H/o Kondakamarla Village of O.D. Cheruvu Mandal, Sri Sathya Sai District pending disposal of the writ petition.

Counsel for the Petitioner: SRI. K SRINIVASA PRASAD

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following order:

APHC010447982024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3459]
(Special Original Jurisdiction)

WEDNESDAY ,THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

WRIT PETITION NO: 22983/2024

Between:

S Gangadri ...**PETITIONER**

AND

The State Of Ap and Others ...**RESPONDENT(S)**

Counsel for the Petitioner:

1.K SRINIVASA PRASAD

Counsel for the Respondent(S):

1.GP FOR CIVIL SUPPLIES

The Court made the following ORDER:

The present Writ Petition is filed to declare the action of the 4th respondent in issuing proceedings in Rc.No.D/336/2024, dated 20.09.2024 suspending the petitioner's Fair Price Shop No.1246029, Eddulavaripalli, H/o Kondakamarla Village of O.D.Cheruvu Mandal, Sri Sathya Sai District as illegal, arbitrary, non-application of mind, unjust and violative of Articles 14, 19 (1) (g) and 21 of the Constitution of India and consequently direct the respondents to supply the Essential Commodities to the petitioner's Fair Price Shop

No.1246029, Eddulavaripalli, H/o. Kondakamarla Village of O.D.Cheruvu Mandal, Sri Sathya Sai District.

2. The case of the petitioner is that he was appointed as permanent fair price shop dealer in the year 1986. Disciplinary proceedings were initiated in the year 2015 framing charges against the petitioner and the Revenue Divisional Officer/respondent No.4 *vide* proceedings in Rc.No.D.Dis.No.B/3277/1015, dated 18.04.2016, imposed fine of Rs.3000/- for minor discrepancies. Aggrieved by the orders, an appeal was preferred before the respondent No.3. The said order was confirmed by the respondent No.3 on 18.04.2023. On 20.09.2024, the respondent No.4 has issued show cause notice-cum-suspension order which was served to the petitioner on 30.09.2024 by the respondent No.5 framing four (04) charges, alleging that the petitioner has violated the Condition No.12 (n), 12 (o), 12 (P) (1) and 12 (P)(3) of A.P.S.T.P.D.S. (Control) Order, 2018.

3. Learned counsel for the petitioner further submits that as per Clause 8(4) of Control Order, 2018, the appointing authority has to take action after conducting enquiry. In the instant case, the respondent No.4 without following procedure under law has issued proceedings suspending the authorization of the petitioner.

4. The learned counsel for the petitioner further submits that the respondents have not completed the enquiry even after lapse of

eight months. The competent authority vested with power as disciplinary authority is bound to complete the disciplinary proceedings initiated against the petitioner/fair price shop dealer alleging certain allegations within reasonable time. There should be no unreasonable delay in concluding the disciplinary proceedings.

5. The issue involved in the present writ petition is squarely covered by the judgment of this Court in ***A Neelima vs Joint Collector, Kurnool***[1]. A learned single Judge of this Court held at Para No.13 as extracted hereinunder:

> "13. Nevertheless, the power of suspension pending enquiry being one which is exercisable by the appointing authority pending enquiry into or in contemplation of the suspension or cancellation of the authorization, the ratio laid down by the Apex Court with regard to the exercise of the said power as in the passage quoted above would apply with equal force to the Control Orders, subject-matter of consideration in these proceedings. Though no time limit is prescribed during which the authorization of a fair price shop dealer can be suspended in the Control orders, it must be held as declared by the Supreme Court in the passage quoted above, that the period of 90 days is reasonable safeguard for limiting the period of suspension. During this period the Appointing authority is expected to complete the enquiry and take a decision as to cancellation or otherwise of the authorization. If for any reason the enquiry is not completed within the said period of 90 days the order of suspension is liable to be revoked and should be revoked either by the appointing authority or the Appellate Authority or the Revisionary Authority.

6. Against the said judgment rendered by the learned Single Judge, an appeal was preferred by the respondents therein, and while disposing the writ appeal by its judgment in ***Joint Collector,***

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[1] 1990 (1) APLJ 268

Kurnool vs. A. Neelima[2] a Division Bench of this Court observed at Para No.2 as extracted hereinunder:

> "We have gone through the impugned judgment which is based upon the decision of the Supreme Court in *Sukhwinder Pal Bipan Kumar* v. *State of Punjab*[3] (1) 65. In that case, the prescribed form of license contained the clause for the period of suspension to be maximum for 90 days. A perusal of the order of the learned Single Judge shows that in essence and substance what was meant by him is that the period of 90 days is a reasonable period to conclude the enquiry and the continuance of it beyond 90 days would be unreasonable and shall be, hence, taken as quashed.As we see it was in the nature of a direction to complete the enquiry within 90 days than laying down a general proposition of law that the maximum period of suspension could be only for 90 days. We agree with the view of the learned Single Judge that the order of suspension cannot be used as a pretext for indefinite postponement of the operation of the fair price shop dealership making it in effect cancellation of the dealership. An order of suspension, like every executive and administrative act, has to be founded upon fair play and lack of arbitrariness. The continuation of order of the suspension indefinitely is whole arbitrary and cannot be countenanced. But we must also rush to add that what is reasonable period of suspension will vary from case to case depending upon various factors, though more often than not, a period of 90 days should ordinarily be sufficient to conclude the enquiry."

7. Heard.

8. In the light of the observations made by a Division Bench of this Court, as extracted supra, and in the considered opinion of this Court, as the enquiry is not completed by the respondents in the present case for more than 180 days, it has to be construed that the enquiry is not completed within the "reasonable period" and accordingly, this Court is holding that the 4th respondent failed to conclude the enquiry within a "reasonable period" and the

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[2]1996 Law Suit (AP) 856

suspension order dated 20.09.2024 shall be revoked and the authorization of the petitioner shall be restored.

9. For the reasons stated above, this Writ Petition is disposed of directing the 4th respondent to revoke the suspension order, dated 20.09.2024, issued against the petitioner and restore the authorization of the petitioner and continue the petitioner as fair price shop dealer. No order as to costs.

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

SD/- K SRINIVASA RAJU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Civil Supplies Department, State of AP, Secretariat Buildings, Velagapudi, Amaravathi.
2. The Collector and District Magistrate, Sri Sathya Sai District, Puttaparthi.
3. The Joint collector and Additional District Magistrate, Sri Sathya Sai District, Puttaparthi.
4. The Revenue Divisional Officer, Puttaparthi, Sri Sathya Sai District.
5. The Tahsildar, O.D. Cheruvu Mandal Sri Sathya Sai District.
6. One CC to Sri. K Srinivasa Prasad Advocate [OPUC]
7. Two CCs to GP for Civil Supplies, High Court Of Andhra Pradesh. [OUT]
8. Three CD Copies

GSC

HIGH COURT

DATED:24/03/2025

ORDER

WP.No.22983 of 2024



DISPOSING OF THE WP

WITHOUT COSTS