



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3332]

MONDAY, THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 22521/2020

Between:

1. VALLAMSETTY CHIRANJEEVI,, S/O. OBULA RAO, AGED ABOUT 32 YEARS, F.P. SHOP DEALER, SHOP NO.5, PAMUR VILLAGE AND MANDAL, PRAKASAM DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY, CONSUMER AFFAIRS AND CIVIL SUPPLIES DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT.

2. THE COLLECTOR AND DISTRICT MAGISTRATE, PRAKASAM DISTRICT, ONGOLE.

3. THE COLLECTOR CS, PRAKASAM DISTRICT, ONGOLE.

4. THE REVENUE DIVISIONAL OFFICER, , KANDUKUR, PRAKASAM DISTRICT.

5. THE TAHSILDAR, , PAMUR MANDAL, PAMUR, PRAKASAM DISTRICT.

...RESPONDENT(S):

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 an appropriate Writ, Order or Direction, more

particularly one in the nature of Writ of Mandamus, to declare the action of the 4th respondent, wherein cancelled authorization of the petitioner vide proceedings Rc.F/2133/2010 dated 05.12.2013 and the consequential orders passed by the 3rd and 2nd respondents vide Procs.Rc.CS2/9/2014 dated 21.10.2014 and Rc.CS2/416/2014 dated 14.09.2020 in confirming the orders passed by the 4th respondent is illegal, arbitrary, unjust and contrary to the provisions of APSPDS Control Order, 2008 and consequently set aside the same, and to pass

IA NO: 1 OF 2020

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 pass orders direct the respondent authorities to continue the petitioner as Fair Price Shop Dealer of Shop No. 5, Pamur Village & Mandal, Prakasam District and permit the petitioner to supply the essential commodities to the card holders without any interruption, by suspending the proceedings Rc.F/2133/2010 dated 05.12.2013 of 4th Respondent and the consequential orders passed by the 3rd and 2nd respondents vide Procs.Rc.CS2/9/2014 dated 21.10.2014 and Rc.CS2/416/2014 dated 14.09.2020, pending disposal of the Writ Petition, and to pass

IA NO: 1 OF 2023

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 vacate the interim order dated 01-12-2020 passed in WP No. 22521 of 2020 and pass

Counsel for the Petitioner:

1.KAVITHA GOTTIPATI

Counsel for the Respondent(S):

1.GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

The case of the petitioner herein is that he has been appointed as fair price shop dealer for Shop No.5 of Pamur Village & Mandal, Prakasam District, in the year 2012 and ever since, he was distributing essential commodities to the utmost satisfaction of the cardholders and the officials. While so, on 15.10.2020, inspected the said shop and found variations, seized the stock and prepared panchanama with incorrect recitals and initiated 6A proceedings before the 3rd respondent. Basing on the report of the Tahsildar, Kandukuru, the 4th respondent issued show cause notice dated 06.11.2010, for which the petitioner submitted his explanation.

It is his further case that after lapse of 3 years, the 4th respondent (Revenue Divisional Officer) neither conducted independent enquiry nor given an opportunity being heard, simply basing on the report of the Deputy Tahsildar, S.Konda, cancelled the authorization of the petitioner *vide* proceedings Rc.F/2133/2010 dated 05.12.2013. Questioning the said proceedings, the petitioner filed Appeal before the 3rd respondent and the 3rd respondent (Collector C.S.) *vide* Rc.CS2/9/2014 dated 21.10.2014 remanded the matter to the 4th respondent with a direction to dispose of the matter afresh by affording opportunity of personal hearing and by duly supplying the documents which are basis for framing charges against the petitioner. Aggrieved by the said order, the petitioner

preferred revision before the 2nd respondent (Collector & District Magistrate) and the same was also dismissed on 27.11.2014 along with stay petition on 14.09.2020. Assailing the same, the present writ petition has been filed.

2. Heard Smt Kavitha Gottipati, learned counsel for the petitioner and Sri Appasani Vineeth, learned Assistant Government Pleader for Civil Supplies for the respondents.

3. Learned counsel for the petitioner while reiterating the contents of the affidavit submitted that the petitioner is a fair price shop dealer to the subject fair price shop and ever since he has been discharging his duties by supplying essential commodities to the utmost satisfaction of the cardholders and the officials. While so, alleging variations in the ground balance of commodities found during inspection of the Fair Price shop, the Tahsildar sent a report to the Revenue Divisional Officer to initiate action under Section 6A of the Essential Commodities Act. He further submitted that without conducting proper enquiry and without following law, the petitioner's authorization has been cancelled *vide* impugned proceedings dated 05.12.2013. The sole basis for conducting enquiry is with regard to the report of the alleged complainants. None of the complainants were examined nor the report relied on by the 4th respondent while passing the impugned orders were supplied to the petitioner along with show cause notice. He further contended that the

Appellate and Revisional authorities also failed to look into the fact that the 4th respondent has violated the principles of natural justice while cancelling the petitioner's authorization.

He further submitted that as per guidelines for dealing with the cases of alleged irregularities by the Fair Price Shop Dealers, a circular dated 30.09.2015 has been issued wherein a separate report has to be submitted to the authorization issuing authority to initiate disciplinary action against the dealer concerned as the appointing authority can initiate disciplinary action under the provisions of Andhra Pradesh State Targeted (Control) Order, 2018 (hereinafter referred to as Control Order, 2018). Despite clear circular in that regard, the authority concerned, based its decision on the 6A report and cancelled the authorization of the petitioner, as such, the said order is unsustainable both on facts and law and liable to be set aside, accordingly, prayed to pass appropriate orders.

4. On the other hand, Sri Appasani Vineeth, learned Assistant Government Pleader, while justifying the impugned orders passed by the 4th respondent contended that there is neither illegality nor procedural irregularity while passing the orders impugned. The writ petition is devoid of merits and liable to be dismissed. He further submitted that in any event, if this Court inclines to interfere with the orders impugned, a liberty may be given to the authorities to conduct fresh enquiry.

5. Perused the record and considered the submissions made by the learned counsel for the parties.

6. The petitioner is a permanent fair price shop dealer for subject shop. The suspension order has been passed on the alleged ground that there are variations which were noticed upon inspection. The primary authority based its decision on 6A report of the Tahsildar and thereby framed charges. As could be seen from the record the said report was not furnished to the petitioner/dealer. However, the Primary Authority-Revenue Divisional Officer cancelled the authorization of the petitioner basing on the report issued by the Tahsildar. The petitioner filed an appeal before the Appellate Authority on the ground that the Primary Authority based its decision basing on the 6A report and the said report was not furnished to him. Despite such ground, the Appellate Authority dismissed the appeal thereby confirming the Primary Authority order.

7. In this regard, Clause 20(i) of Control Order, 2018 is extracted hereunder for quick reference:

The inspecting authorities as and when found contravention of the provisions of this Order shall submit necessary inspection reports for initiation of disciplinary action under this Order. In case of seizure of scheduled commodities, for any violation or contravention of the provisions of this Order, a report of seizure shall be submitted to the Collector/Joint Collectors, as the case may be, for initiating the action under section 6-A(1) of the Essential Commodities Act, 1955. Simultaneously, a separate report shall be filed () "before the appointing authority as proposed" for initiation of disciplinary proceedings against errant dealer under the provisions of this Order and for violating the conditions of authorisation; and*

The Inspecting authorities as and when found misuse /diversion of scheduled Commodities meant for Targeted Public Distribution System or other schemes, shall report to the authorization issuing authority for

initiation of disciplinary action against the Mobile Dispensing Unit Operator and the stocks available in the Mobile Dispensing Unit shall be handed over to the Fair Price Shop dealer concerned for distribution under Targeted Public Distribution System. Pending enquiry of the disciplinary case, by ordering interim suspension of the authorization issued, the authorization issuing authority shall ensure that scheduled commodities should be distributed as per schedule.

The authorization issuing authority shall report to the District Collector to take action against Mobile Dispensing Unit operator.

8. By virtue of the Control Order, 2018, and the circular, dated 30.09.2015, a separate report has to be submitted to the appointing authority Revenue Divisional Officer for initiating any disciplinary action against the dealer.

9. The authority passed order impugned basing its decision by relying on the 6A report of the Tahsildar. In the said view of the fact, the order impugned is unsustainable.

10. In similar set of facts, a Coordinate Bench of this Court in W.P.No.500 of 2020 has held that to the said effect that in the absence of any separate report for initiation of disciplinary action against the dealer, the order passed cannot be sustained and has to be set aside declaring the same as illegal and contrary to clause 20(i) of Control Order, 2018.

11. The Appellate Authority without answering to the said ground simply and mechanically confirmed the orders of the Revenue Divisional Officer and further the Revisional Authority as well. In the said circumstances, the orders impugned are *ex facie* illegal and contrary to the *Audi Alteram Principale*. Even otherwise, the authority cannot base its decision on 6A report by virtue of 20(i) of Control Order, 2018 wherein a

separate independent report has to be invited and as was held in W.P.No.500 of 2020.

12. In view of the Control Order and Judgement referred *supra*, the orders impugned is wholly unsustainable and illegal and liable to be set aside and the matter is remitted back to the Primary Authority for conducting fresh enquiry. Till such exercise, petitioner shall continue as fair price shop dealer. It is made clear that, if there is no independent report from the Tahsildar, no disciplinary enquiry need to be conducted.

13. Accordingly, the Writ Petition is ***disposed of***. There shall be no order as to costs.

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

JUSTICE RAVI CHEEMALAPATI

Date: 20th April, 2026

RKS