
(2011) 10 AP CK 0014
In the Andhra Pradesh High Court
Case No : Writ Petition No. 27874 of 2011

B. Ramanna

APPELLANT

Vs

Revenue Divisional Officer, Dharmavaram, Anantapur District
and another

RESPONDENT

Date of Decision : 12-10-2011

Acts Referred:

Essential Commodities Act, 1955 — Section 6A

Citation : (2011) 6 ALT 200

Hon'ble Judges : R. Subhash Reddy, J

Bench : Single Bench

Advocate : Kothapalli Ram Mohan Chowdary, for the Appellant;

Final Decision : Allowed

Judgement

R. Subhash Reddy, J.—Heard Sri Kothapalli Ram Mohan, learned counsel appearing for the petitioner, as well as the learned Government Pleader for Civil Supplies appearing for the respondents. Inasmuch as the impugned order is passed without following the procedure contemplated under the provisions of the A.P. State Public Distribution System (Control) Order, 2008, with the consent of both the counsel the writ petition is being disposed of at the admission stage.

2. The petitioner is a Fair Price Shop dealer of Shop No.1 of Thumucherla Village, Kanaganapalli Mandal, Anantapur District. The Vigilance officials appear to have made an inspection in the business premises of the petitioner on 2.7.2011 and found certain variation in the stocks. Pursuant to the said inspection, the 2nd respondent-Tahsildar, Kanaganapalli Mandal, Anantapur, issued proceedings Rc. No.(B) 117/2011, dated 4.7.2011, suspending the authorisation of the petitioner pending finalisation of the enquiry initiated u/s 6-A of the Essential Commodities Act, 1955. Aggrieved by the same, the petitioner carried the matter in appeal before the 1st respondent-Revenue Divisional Officer, Dharmavaram, Anantapur District, as provided under the provisions of the A.P. State Public Distribution System (Control) Order, 2008 (for brevity "the Control Order") along with an

application seeking stay. When the said interim application was not considered, the petitioner filed W.P.No.21910 of 2011 and this Court disposed of the said writ petition by order dated 3.8.2011, directing the Revenue Divisional Officer, Dharmavaram, to consider the interim stay application filed by the petitioner and pass appropriate orders within a period of three weeks from the date of receipt of a copy of the said order. It appears that pursuant to the said directions of this Court, the 1st respondent-appellate authority has disposed of the appeal filed by the petitioner, not only confirming the order of suspension passed by the 2nd respondent, but also cancelled the authorisation of the petitioner in proceedings Rc. No. 1483/11/F, dated 28.9.2011. Aggrieved by the same, the petitioner has filed the present writ petition.

3. It is to be noticed that as against the order of suspension passed by the 2nd respondent, the petitioner has preferred the appeal before the 1st respondent. If the authorisation of the petitioner is to be cancelled on any other grounds, before passing the impugned order, the 1st respondent ought to have conducted an independent enquiry by issuing a show-cause notice and giving an opportunity to the petitioner. A perusal of the impugned order dated 28.9.2011 shows that the same has been passed without issuing any notice and giving opportunity to the petitioner.

4. In that view of the matter, without going into the merits of the allegations made against the petitioner, I deem it appropriate to set aside the impugned order dated 28.9.2011 only on the ground that the same is not preceded by an enquiry and is passed contrary to the procedure prescribed under the Control Order.

5. Accordingly, the writ petition is allowed setting aside the impugned order dated 28.9.2011. However, it is made clear that if it is found that the petitioner has committed violation of the provisions of the Control Order or conditions of authorisation, this order will not preclude the respondents to take steps in accordance with law. No order as to costs.