(2008) 01 AP CK 0045

In the Andhra Pradesh High Court

Case No : Writ Petition No. 18431 of 2007

D. Kanakachary APPELLANT

Vs

District Collector and Others RESPONDENT

Date of Decision : 17-01-2008

Acts Referred:

Andhra Pradesh State Public Distribution System (Control) Order, 2001 — Section 5(A)
Constitution of India, 1950 — Article 226
Essential Commodities Act, 1955 — Section 3

Citation : (2008) 3 ALD 415 : (2008) 2 ALT 286

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : V. Sai Ram Goud, for the Appellant; G.P. for Civil Supplies, for the Respondent

Final Decision : Allowed

Judgement

P.S. Narayana, J.—This Court ordered notice before admission on 30-8-2007 and issued rule nisi on 23-11-2007. Counter affidavit is filed.

2. Heard Sri V. Sai Ram Goud, Counsel representing the writ petitioner and the learned Government Pleader for Civil Supplies. At the request of Counsel on record, the Writ Petition itself is being disposed of finally though the matter is appearing under the caption "Interlocutory".

3. The Writ Petition is filed for a Writ of Mandamus declaring the impugned proceedings of the 1st respondent in Case No. CS1/991/2007 dated 17-8-2007 as illegal, arbitrary and contrary to the principles of natural justice and consequently set aside the same in respect of Fair Price Shop Dealer of Chinnakonduru Village of Choutuppal Mandal, Nalgonda District and to pass such other suitable orders.

4. Sri Sai Ram Goud, the learned Counsel representing the writ petitioner had taken this Court through the contents of the affidavit filed in support of the Writ

Petition and also the stand taken in the counter affidavit and would maintain that when the 2nd respondent recorded certain reasons and allowed the Appeal imposing some penalty, the 1st respondent purporting to exercise the powers under Clause 5-A of the A.P. State Public Distribution System (Control) Order, 2001, hereinafter in short referred to as "Order" for the purpose of convenience, making certain observations and recording certain additional facts, setting aside the orders of the learned Joint Collector, Nalgonda confirming the orders made by the Revenue Divisional Officer, Bhongir, cannot be sustained. The learned Counsel made certain submissions on the concept of locus standi and would maintain that treating the representation of the 5th respondent as suo motu Revision and allowing the said representation by recording certain additional reasons without putting the petitioner on notice relating to the additional reasons, is totally improper and unjust. The Counsel also would submit that this is not a case where the suo motu power could be exercised by the 1st respondent and just for certain political reasons, this order was made by the 1st respondent. The learned Counsel also had drawn the attention of this Court to the relevant portion of the order of the 1st respondent and also the order made by the 2nd respondent as well in this regard. The learned Counsel also placed reliance on certain decisions to substantiate his submissions.

5. Per contra, the learned Government Pleader for Civil Supplies had taken this Court through the stand taken by the counter affidavit and would maintain that the appellate order to be taken as continuation of the original order and in view of the same, in the light of the clear language of Clause 5-A of the order referred to supra, the 1st respondent is perfectly entitled to exercise suo motu power and there cannot be any doubt whatsoever in this regard. Further, the learned Government Pleader for Civil Supplies would contend that the concept of locus standi and maintainability of the present Writ Petition at the instance of the 5th respondent also cannot be in any doubt whatsoever in the light of the view expressed by the Larger Bench of this Court. At any rate, in the light of the convincing reasons recorded by the 1st respondent, this is not a case to be interfered with by this Court while exercising powers under Article 226 of the Constitution of India. The learned Counsel had drawn the attention of this Court to Clause 5-A of the Order and also laid emphasis on Clause 5(4) of the said Order in particular.

6. Heard the Counsel and perused the records.

7. The petitioner is a Fair Price Shop Dealer ot Chinnakonduru village and the 5th respondent is the Sarpanch of the said Village and it is the specific case of the petitioner that from the date of election, the 5th respondent started harassing the petitioner for supply of the essential commodities to his followers without insisting for cards and money. The petitioner refused to supply the essential commodities without cards to the followers of the 5th respondent. Further, it is his specific case that the 5th respondent threatened the petitioner that he would see that his authorisation is cancelled by making false complaint before the

competent authorities since he belongs to ruling party. The 5th respondent made a false complaint before the 4th respondent leveling certain allegations and the said allegations are false and baseless. Further, certain averments were made relating to the political pressure in view of which it is stated some false report had been submitted. Further, it is averred that the 3rd respondent basing on the false report of the 4th respondent initially suspended the authorisation of the petitioner vide proceedings No. H/2406/2006 dated 4-12-2006. The said proceeding reads as hereunder:

Proceedings of The Revenue Divisional Officer, Bhongir

Present: Sri K.N. Kristappa, MA, M.Ed.,

Proc. No. H/2406/06 Date: 4-12-2006

Sub: Civil Supplies-Choutuppal Mandal-Chinnakondur(V)-Certain allegations against Sri D. Kanaka Charu, FPS Dealer- Suspension of authorisation-Orders-Issued.

Read: MRO,Choutuppal Lr. No. D/6325/ 06, dated 23-11-06.

ORDERS:

The Mandal Revenue Officer, Choutuppal through the reference cited has reported that Sri D. Kanaka Chary, F.P. Shop Dealer, Chinnakondur (V) has supplied old stock to the Primary School Under Mid Day Meals Programme even fresh stock supplied from MLS Point and also 31 Ltrs. Kerosene, 2-67 Qtls. Rice found variation between Book Balance and Ground Balance.

In view of the above irregularities, the Authorisation of Sri D. Kanaka Chary, F.P. Shop Dealer, Chinnakondur (V) of Choutuppal (M) is placed under suspension under clause 5(4) of the APSPDS (C) Order 2001 with immediate effect, pending further enquiry. The Mandal Revenue Officer, Choutuppal Mandal is requested to keep nearby Authorised Dealer as incharge for the FPS of Chinnakondur (V) for uninterrupted supply of ECs to the card holders, till further orders.

Sd/- Revenue Divisional Officer, Bhongir

The petitioner being aggrieved of the same filed Appeal before the 2nd respondent and in turn the 2nd respondent granted stay initially vide proceedings Case No. CS1/752/2007 dated 20-4-2007 and directed the respondents 3 and 4 to continue the petitioner as Fair Price Shop Dealer vide proceedings No. H/2406/2006 dated 1-5-2007 of the 3rd respondent. The said order dated 20-4-2007 reads as hereunder:

In The Court of The Joint Collector, Nalgonda

Present: Sri B.Sreedhar, I.A.S.,

Case No. CS1/752/2007 Dated: 20-4-2007

Between

Sri Devarakonda Kanaka Chary,

s/o.Veera Chary, FPS Dealer,

Chinnakonduru Village,

Choutuppal Mandal

Appellant

And

The Revenue Divisional Officer, Bhongir

..Respondent

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This is an appeal filed by Sri Devarakonda Kanaka Chary s/o. Veera Chary FPS Dealer, Chinnakonduru Village of Choutuppal Mandal, Nalgonda District through Sri Pampati Chandraiah, Advocate, Nalgonda against the orders of the RDO Nalgonda vide Procgs. No. H/2406/06 Dated 28-02-2007 in canceling the F.P. Shop authorisation of the appellant. The Court passes the following:

Interim stay granted on the Revenue Divisional Officer Bhongir Procgs. No. H/2406/06 Dated 28.02-2007. The Revenue Divisional Officer Bhongir is directed to send remarks on the affidavit filed by the appellant along with connected records. Pending disposal of the Appeal case the appellant may be permitted to continue as FSP Dealer.

//By Order// Sd/-

A. Chandrasekhara Sarma For Joint Collector, Nalgonda

It is further stated that the 2nd respondent after thorough enquiry basing on the official records allowed the Appeal filed by the petitioner in Case No. CS1/752/2007 dated 4-6-2007. The 2nd respondent partly allowed the Appeal imposed a penalty of Rs. 1500/-with a warning to be careful in future. It is also stated that the 5th respondent has no locus standi to question the order of the 2nd respondent in Revision before the 1st respondent. Moreover, the 5th respondent is not a party to the proceedings before the respondents 2 to 4 and he is only a defacto-complainant before the 4th respondent and as such he has no locus standi to question the order of the 2nd respondent and as such the suo motu Revision entertained by the 1st respondent is without jurisdiction. Further it is stated that during the pendency of the proceedings before the respondents 1 to 4, the petitioner had been distributing the essential commodities to the card holders.

8. It may be pertinent to have a glance at the relevant portions of the orders made by the 2nd respondent and the 1st respondent as well. The 1st respondent

treating the representation as suo motu Revision under Clause 5-A of the Order observed:

The Government with a view to provide one time meal to the deserving poor students has launched the Mid Day Meals Scheme and instructed to supply fine quality A.P. rice only. But the dealer has supplied old stock of rice to the school which may adversely affect the health of the poor students. The Technical person certified that the rice is A.P. rice only but he has not certified the quality of the rice. More over the dealer even after his suspension without handing over the charge to the in-charge dealer has tried to divert the (2) cans of Kerosene into black-market which clearly reflects his attitude. I feel that these things have not come to the notice of the Joint Collector during adjudication of the Appeal. With the above observations the Revision is disposed of by setting aside the orders of the Joint Collector, Nalgonda passed in CS1 /752/07 dated 4-6-2007. The orders of the Revenue Divisional Officer, Bhongir are confirmed. The Revenue Divisional Officer, Bhongir may take necessary action for notifying the vacancy as per the procedure in vogue.

It may be appropriate to have a look at the relevant portion of the order dated 4-6-2007 made by the 2nd respondent, Joint Collector, Nalgonda:

After careful consideration of the arguments made by the counsel on behalf of f he appellant and the connected records it is observed that the authorisation of the FPS dealer was cancelled on the allegations of supply of inferior quality rice to the school before receiving the fine quality rice from the IMG with an intention to divert the fresh stock into black-market and shortages in stocks of PDS rice and kerosene noticed by the inspecting officer when compared the physical stocks with reference to book balances. The explanation of the appellant dealer regarding variations is convincing since the Panchayat Secretary also certified that the dealer has distributed 2.72 qtls. of rice and 30 litres kerosene to the card holders who have not received their coupons. The appellant dealer has supplied rice to the school from the P.D.S. rice stocks available with him and the receipt of stocks also not denied by the HM, hence there is no diversion or black-marketing took place and moreover the Technical person also certified that the rice is A.P. Rice. It is observed that show cause notice was not issued to the dealer on the charge of diverting of 60 Litres kerosene. Opportunity was not provided to the dealer to submit his explanation regarding diversion of 60 litres kerosene. Therefore I opined that the action of the Revenue Divisional Officer in canceling the authorisation of the FPS dealer on single charge that the dealer has supplied rice in advance to the school is not justifiable. The Appeal allowed partially and I impose a penalty of Rs. 1500/- (Rupees one thousand five hundred only) on the dealer with a warning to be careful in future. With the above direction the appeal is disposed and the orders of the Revenue Divisional Officer, Bhongir are quashed. The Revenue Divisional Officer, Bhongir is directed to collect the penalty amount from the dealer and restore the authorisation and allow the appellant to continue as FPS dealer of Chinakondur village.

9. In the counter affidavit filed on behalf of the respondents 1 to 4 which was sworn to by the Assistant Collector, Bhongir, specific stand had been taken that it is a fact that the District Collector, Nalgonda had taken suo motu Revision under Clause 5(A) of the Order based on the representation submitted by Sri Chinthapally Venkateshwar Reddy, Sarpanch G.P. Chinnakondur and other Villagers against the order passed by the Joint Collector, Nalgonda in case No. CS1/ 752/07 and the Collector is authorised under Clause 5(A) of the Order to take up suo motu Revision. Further it is stated that the petitioner is authorised dealer of Chinnakondur village of Choutuppal Mandal and the authorisation was issued vide No. F/4141/03 dated 9-1-2004 and made valid upto 31-3-2007. The 4th respondent reported vide Lr. No. D/6325/06 dated 23-11-2006 that adverse news was published in Vaartha Telugu daily newspaper on 23-11-2006 with the title "Mukkina Biyyam Purugula Annam" and enquired in the village and verified the Mid Day Meals Rice stocks in Primary School, Chinnakondur village and found that the Fair Price Shop Dealer supplied old stick rice of 5 qtls. to the School on 16-11-2006 whereas the Mandal Level Stockist point supplied 6.60 qtls. Mid Day Meals fresh rice stock to the Fair Price Shop Dealer on 18-11-2006 but the Fair Price Shop Dealer had not supplied the same fresh stock to the Primary School with an intention to divert the fresh rice into black market. Further, the Mandal Revenue Officer verified tstocks in the Fair Price Shop of Chinnakondur village and found variation of 2.72 qtls. of rice and 31 litres of kerosene oil between book balance and ground balance and submitted Stock Register and Distribution Register for initiating action. Further it is stated that based on the report of the Mandal Revenue Officer, Choutuppal, as a prima facie evidence of irregularity, the authorisation of the petitioner''s Fair Price Shop was placed under suspension under Clause 5(4) of the Order by the Revenue Divisional Officer, Bhongir in Proc. No. H/2406/06 dated 4-12-2006 for variation of stock of rice and K. Oil found between book balance and ground balance and he was issued show cause notice vide proc. No. H/2406/06 dated 21-12-2006 with directions to submit explanation within 7 days from the date of receipt of the notice about the irregularities committed by him for supply of old stocks to the Mid Day Meals in stead of fresh Rice and variation of Rice and K. Oil. Accordingly, the petitioner submitted his explanation on 8-1-2007. In the meanwhile, the Mandal Revenue Officer, Choutuppal vide Lr. No. D/6325/06 dated 27-1 -2007 reported that the petitioner who was under suspension had not handed over the charge to the in-charge dealer and tried to sell out 60 litres of K. Oil in 2 Cans into black market and was caught hold of by the Sarpanch and the Villagers of Chinnakondur village. As such, the petitioner committed irregularities two times within a short period of two months and hence the authorisation of the petitioner who was under suspension was cancelled under Clause 5(4) of the Order vide office proc. No. H/2406/06 dated 28-2-2007. Aggrieved by the said order the petitioner filed appeal before the Joint Collector, Nalgonda. In turn, the Joint Collector, Nalgonda granted stay vide proc. No. CS1/752/07 dated 20-4-2007 on the orders of the Revenue Divisional Officer, Bhongir in Proc. No. H/2406/06 dated 28-2-2007 and directed the Revenue Divisional Officer, Bhongir to permit the petitioner to

continue as Fair Price Shop Dealer of Chinnakondur village of Choutuppal Mandal. Accordingly, supporting orders had been issued to the petitioner vide proc. No. H/2406/ 06 dated 1-5-2007 while restoring the authorisation temporarily till final orders are received from the Joint Collector, Nalgonda. It is also stated that the 2nd respondent had allowed the Appeal filed by the petitioner in Case No. CS1/752/07 dated 4-6-2007 while imposing penalty of Rs. 1500/- on the petitioner with a warning to be careful in future. It is also further stated that Sri Chinthapally Venkateshwar Reddy, Sarpanch of Gram Panchayat Chinnakondur had filed a representation to the District Collector, Nalgonda stating that the Fair Price Shop Dealer is not properly distributing the essential commodities and his Dealership was cancelled by the Revenue Divisional Officer, Bhongir on noticing the irregularities after conducting the enquiry by the Mandal Revenue Officer, Choutuppal. It was also alleged that the Fair Price Shop Dealer had supplied old stock and inferior quality rice under Mid Day meals to the Primary School even though fine quality was received from the IMG Point and the dealer was caught hold of by the villagers when he tried to divert two cans of K. Oil into black market without handing over the charge to the in-charge dealer after his dealership was suspended by the Revenue Divisional Officer, Bhongir. Even after restoration of his authorisation, again he had not distributed P.D.S.K. Oil and rice to some of the card holders. Hence the petition submitted by the Sarpanch had been taken as suo motu revision as per Clause 5(A) of the Order and interim stay was granted oh 30-6-2007 on implementation of orders of the Joint Collector, Nalgonda in Case No. CS 1/752/07 dated 4-6-2007. It is further stated that under Sub-clause 5(A) District Court/Joint Collector may either suo motu or on application may call for and examine the records under Cluase 5 of the Order relating to any order passed under subClauses 2 or 4 for the purpose of satisfying himself as to the legality or propriety or adequacy of the punishment imposed and for reasons to be recorded in writing, add, amend, revise or annul the orders passed by the disciplinary authority. Before passing final orders the District Court/Joint Collector shall give the Fair Price Shop Dealer concerned an opportunity for making his representation and pass such order thereon as it may deem fit. Accordingly, the Fair Price Shop Dealer was given opportunity for making the representation and he appointed Counsel on his behalf who had argued about the case. After careful consideration of the arguments and after verifying the connected records it was observed by the District Court that the dealer supplied old rice stock to the school under Mid Day Meals in stead of fresh stock which was supplied to Fair Price Shop from the IMG point. The Government, with a view to provide one time meal to the deserving poor students, had launched Mid Day meals scheme and instructed to supply fine quality A.P. rice only. But the dealer had supplied old stock of rice to the school which may adversely affect the health of the poor students. Moreover, the dealer even after suspension without handing over the charge to the in-charge dealer had tried to divert two cans of K. Oil into black market which may clearly reflect his attitude. So it was felt that these things had not come to the notice of the Joint Collector during adjudication of the appeal and with these observations the

Revision Petition is disposed of setting aside the orders of the Joint Collector, Nalgonda passed in Case No. CS1/752/07 dated 4-6-2007. Accordingly the orders of the Revenue Divisional Officer, Bhongir are confirmed by the Collector and it was directed that the appointing authority may notify the vacancy as per the procedure in vogue. As such the order passed by the 1st respondent is legal, not contrary to law and he reviewed the action of the disciplinary authority suo motu on the application of the Sarpanch u/s 5(A) of the Order. The petitioner participated in the enquiry before the 1st respondent and he came to the court alleging that the 1st respondent has no power to deal with the matter. It is further stated that the petitioner had distributed the essential commodities as per the orders issued in H/2406/06 dated 1 -5-2007 till the final orders issued by the District Court, Nalgonda vide proc. No. CS1/991/07 dated 30-8-2007 and thereafterthe Fair Price Shop of Chinnakondur was kept in charge by the adjacent dealer of Peddakondur.

10. This is the stand taken in the counter affidavit filed by the respondents 1 to 4.

11. Clause 5 of the Order dealing with Issue of authorisation to fair price shops and establishment, referred to supra, reads as hereunder:

(1) With a view to controlling and ensuring proper distribution of scheduled commodities owned by the State Government, the appointing authority may issue authorizations to fair price shops owned by the State Government or any State Government undertaking or any public institution or persons including women or Development of Women and Children in Rural Areas group (DWCRA) or registered Women voluntary consumer organizations or thrift groups like Podupu Lakshmi or Contractor-operative societies which are run exclusively by women (which have only women as members) either wholly or partly, subject to such preferences and reservations as may be prescribed by Government from time to time in this regard to obtain and supply scheduled commodities in accordance with the provisions of this order.

Provided that the said authorisation shall cease to be valid when the Government undertake running of the authorised fair price shop either by themselves or through a Government undertaking or a corporation wholly owned by the Government or a Co-operative Society for the benefit of Scheduled Castes or Scheduled Tribes under a Government Scheme.

Provided further that the State Government may, in the public interest, replace all or any of the fair price shop dealers and entrust the distribution through a shop set up by the State Government, a State Government undertaking or a Corporation wholly owned by the State Government or a Co-operative Society for the benefit of the Scheduled Castes or Scheduled Tribes under a Government Scheme.

Provided also that any person dealing in same commodities obtained otherwise than through Government for supply through Public Distribution System either in his own name or in the name of any member of his family shall not be issued authorisation to run the fair price shop and the Government, in cases where the fair price shop dealer has also got a licence in his own name or in the name of any of his family members to deal with the same commodities, obtained otherwise than through the Government for sale to consumers through Public Distribution System, cancel the authorisation.

Provided also that every fair price shop dealer should give an undertaking to the appointing authority concerned that he or she would relinquish the dealership if he or she is elected to any public office.

(2) Every authorised fair price shop dealer or contractor-operative society as the case may be, shall deposit with the State Government or the appointing authority or any person authorised in this behalf "a sum of Rs. 4,000/- (Rupees Four Thousand only) in the case of Urban areas and a sum of Rs. 3,000/-(Rupees Three Thousand only) in the case of Rural areas" as refundable trade deposit in the shape of security deposit forthe due performance of the conditions of the authorisation and the sum so deposited or any part thereof may, without prejudice to any other penalty after enquiry, and after giving a reasonable opportunity to the person to whom the authorisation is issued, of stating his case and also of being heard, and for reasons to be recorded in writing, be forfeited, by the State Government or the appointing authority for contravention of any of the provisions of this orders or any conditions of the authorisation issued thereunder. If as a result of any departmental action the sum deposited or any part thereof is forfeited the authorised fair price shop shall forthwith pay to the Government such amount as may be required to make up the prescribed sum to be deposited as security.

Provided that where a dealer of a fair price shop is exempted from payment of the security deposit under the above clause the Government or the appointing authority may, in case of contravention of any of the conditions prescribed in the authorisation, after enquiry and for reasons to be recorded in writing besides canceling the said authorisation impose penalty of a sum not exceeding the security deposit prescribed for authorised fair price shop in general.

Provided further that nothing in this clause shall apply to a shop run by the Government or a Government undertaking or a corporation wholly owned by the Government under a Government scheme.

(3) Any agreement executed by any authorised fair price shop for being appointed or approved and which was in force immediately before the commencement of this Order shall stand cancelled except as respects anything done or omitted to be done before such commencement and any sum deposited thereunder a security shall be deposited with the Government under Sub-clause (2).

(4) The appointing authority may, at any time whether at the request of the authorised fair price shop or authorised establishment or suo motu after making such enquiry as may be deemed necessary and the reasons to be recorded in

writing, add to, amend, vary, suspend or cancel the authorisation issued or deemed to be issued to him under this clause.

Notwithstanding anything contained in Sub-clause (3) and (4) above, where a fair price shop dealer has been convicted by a Court of law in respect of contravention of any order made u/s 3 of the Essential commodities Act, 1955 (Central Act 10 of 1955) relating to any of the Commodities mentioned in the schedule to this order, the appointing authority, shall, by order in writing, cancel his authorisation.

Provided that such conviction is set aside in any appeal or revision, the appointing authority may, on application in Form-I made by the person whose authorisation has been cancelled, reissue the authorisation to such person.

(5)(i) Any application for issue or renewal of authorisation shall be made in Form-I to this order and every authorisation issued, reissued or renewed under this order shall be in the Form of Authorisation prescribed in Form-ll of this Order.

(ii) Every application, for renewal shall be made along with the authorisation, before expiry of the period of authorisation.

(iii) The authorisation may be renewed if the application for renewal if received within one month after the expiry of the period of its validity subject to payment of fee prescribed therefor. However, if an application for renewal of authorisation is not made within one month, after the expiry of its validity, the authorisation shall cease to be valid and the entire security deposit made under Sub-clause (2) of Clause (3) shall be forfeited.

(iv) The authorisation is not transferable.

Provided that the validity of the authorisation shall not be deemed to have expired if an application for its renewal as required under this subclause is pending before the appointing authority as the case may be.

(6) Period of authorisation and fees chargeable:

(i) Every authorisation issued under this order shall be valid for a period ending by 31st March and shall be issued for a period of two years.

(ii) The fees payable for issue of an authorisation shall be Rs. 500/- and that for the renewal of authorisation for two years shall be Rs. 250/-.

Provided that all these fair pries ho dealers who are already appointed as dealers shall pay the fees as prescribed under this sub-clause and obtain fresh authorizations within the period of three months from the date of publication of this notification in the Andhra Pradesh Gazette.

Emphasis had been laid on Clause 5(4) specified above. Clause 5-A of the said Order dealing with Suo-Motu Review reads as hereunder:

The Chief Rationing Officer in respect of Hyderabad City or the District Collector/

Joint Collector elsewhere may either suo motu or an application may call for examine the records under Clause (5) of this order relating to any order passed under Sub-clause (2) or (4) fort purpose of satisfying himself as to the legality or propriety or adequacy of the punishment imposed and for reasons to be recorded in writing, add to, amend, revise or annual the orders passed by the appointing authority. Before passing final orders under this clause, the Chief Rationing Officer, in respect of the twin cities of Hyderabad and Secunderabad District Collector/ Joint Collector elsewhere shall give the fair price shop dealer concerned an opportunity of making his representation and pass such order thereon as it may deem fit.

12. Clauses 20 and 21 of the Order dealing with Appeal and Revision read as hereunder:

Appeal-

Any person aggrieved by any order passed by the appointing Authority under Clause (5) may, within thirty days from the date of receipt by him/her of such order, appeal against such order, where it is passed by:

(i) The Revenue Divisional Officer or the Sub-Collectors or the District Supply Officer (city) having jurisdiction over the area in respect of the Visakhapatnam city to the Joint Collector in the District.

(ii) The Chief Rationing Officer in Hyderabad District.

In disposing of any appeal under this clause, the appellate authority may, after giving the party an of making his representation, pass such order thereon as that authority may deem fit.

2. Pending disposal of an appeal, the appellate authority may direct that the order appealed against shall not take effect until the appeal is disposed of.

Revision:

(i) Any person aggrieved by an order under Clause 20(1)(i) may, within thirty days from the date of communication to him/her of such an order, prefer a revision to the District Collector concerned.

(ii) Any person aggrieved by an order under Clause 20(1)(ii) may within thirty days from the date of communication to him/her of such an order, prefer a revision to Commissioner of Civil Supplies, Andhra Pradesh, Hyderabad.

Provided that no order shall be passed under the clause unless the aggrieved person has been given a reasonable opportunity of representing his/hercase.

(iii) Pending disposal of the revision, the District Collector in the districts and the Commissioner of Civil Supplies in respect of Hyderabad District, may direct that the order under revision shall not have effect until the revision is disposed of.

13. Reliance also was placed on B. Bala Seshanna Vs. District Collector and

Others, and also Alapati Soma Sekhar Vs. Collector and Others, .

14. As far as the locus standi is concerned in the light of the expanded horizon of the concept of locus standi, this Court cannot accept withthe contention of the writ petitioner that the 5th respondent has no locus standi at all to make a representation. But however, when additional reasons had been recorded by the 1st respondent inasmuch as the suo motu powers to be exercised sparingly, it would have been just and proper if the 1st respondent remitted the matter to the 2nd respondent to give further opportunity to the writ petitioner. Be that as it may, in the light of the reasons recorded by the 2nd respondent and also the 1st respondent, this Court is thoroughly satisfied that the suo motu powers which are to be exercised very sparingly had not been exercised by the 1st respondent in proper perspective. When discretion had been exercised by the 2nd respondent narrating several facts and recording several reasons, normally, such order should not have been disturbed by the 1st respondent. This Court is not inclined to express any further opinion, but however, this Court is making an observation in the light of the reasons recorded by the 2nd respondent and also the 1st respondent in this regard. When discretionary orders are made, the gravity of the charges, if any, also may have to be taken into consideration and when the charges are not so grave, such orders made in the discretion of a particular quasi-judicial authority, normally not to be disturbed or to be interfered with. In the light of the facts and circumstances, the order impugned is hereby quashed. In view of the peculiar facts and circumstances, since certain additional facts had been recorded by the 1st respondent and in the light of the reasons recorded by the 2nd respondent, it would be just and appropriate to remit the matter to the Revenue Divisional Officer, Bhongir-3rd respondent to give opportunity to petitioner and also the 5th respondent as well and decide the matter afresh in accordance with Law keeping in view the observations made by both the respondents 1 and 2 and also the contentions which may be advanced by the respective parties and also the gravity of the charges levelled against the writ petitioner as well. Inasmuch as the matter is being remitted to the 3rd respondent-Revenue Divisional Officer, Bhongir, for affording opportunity to both the parties to advance their contentions, till an appropriate decision is taken by the concerned Revenue Divisional Officer, let the writ petitioner be permitted to distribute the essential commodities as usual.

Accordingly, the Writ Petition is allowed with the above directions. No costs.