
(2010) 12 AP CK 0031

In the Andhra Pradesh High Court

Case No : Writ Petition No. 30650 of 2010

Kondamudi Benerjee

APPELLANT

Vs

The Revenue Divisional Officer and Others

RESPONDENT

Date of Decision : 07-12-2010

Acts Referred:

Citation : (2011) 2 ALD 477

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : I. Koti Reddy, for the Appellant; AGP for Civil Supplies, for the Respondent

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—This writ petition is filed for a mandamus to set aside order, dated 26.11.2010, of Respondent No. 1, whereby he has cancelled the Petitioner's authorization. I have heard Sri I. Koti Reddy, learned Counsel for the Petitioner, and the learned Assistant Government Pleader for Civil Supplies appearing for the Respondents.

2. The Petitioner is a fair price shop dealer. Proceedings were initiated under the provisions of the Andhra Pradesh State Public Distribution System (Control) Order, 2008 on certain allegations. The order suspending the Petitioner's authorization was challenged in a writ petition, which was dismissed by this Court with a direction to Respondent No. 1 to pass final orders, after considering the Petitioner's explanation, dated 29.05.2010. Purporting to pass such a final order, Respondent No. 1 has passed the impugned order.

3. A perusal of this order shows that the Petitioner has submitted his explanation on 01.06.2010. It is observed in the order that though the Petitioner has attended the hearing on the date fixed for that purpose, he did not attend at the scheduled time and that the Petitioner refused to give a written statement at the hearing on 22.11.2010. Stating that the explanation filed by the Petitioner on

01.06.2010 is not convincing, Respondent No. 1 has held the charges framed against the Petitioner as proved.

4. In my opinion, Respondent No. 1 has not made a proper approach in passing the order cancelling the Petitioner's authorization. He has neither referred to the charges nor the contents of the explanation submitted by the Petitioner. By a cryptic observation, Respondent No. 1 has stated that the Petitioner's explanation is not convincing and that the charges framed against him are proved.

5. Indubitably the order cancelling the privilege of distribution of essential commodities through a licence visits the holder of the licence with adverse consequences. Before subjecting the licensee to such an adverse order, it is obligatory on the part of the competent authority to apply his mind to the charges framed against and the explanation offered by the licensee. Failure to follow this fair procedure renders the very purpose of framing the charges and calling for explanation otiose. The principles of natural justice, it is trite are embedded in the administrative law field. Whenever an action, which is likely to cause adverse civil consequences is sought to be taken, the person, who is likely to be affected by such action, is entitled to reasonable opportunity of defending himself see *State of Orissa v. Dr. (Miss) Binapani Devi* and Ors. 1967 SC 1269 *Maneka Gandhi v. Union of India* 1978 SC 597 , *Rajesh Kumar and Others Vs. D.Commissioner of Income Tax and Others*,

6. By failing to consider the explanation of the Petitioner with reference to the charges framed against him, Respondent No. 1 has indulged in serious violation of principles of natural justice. Therefore, the impugned order cannot be sustained in law and is accordingly quashed. This order, however, does not preclude Respondent No. 1 from considering the Petitioner's explanation and passing a speaking order afresh with reference to the charges framed against the Petitioner.

7. The writ petition is accordingly allowed.

8. As a sequel to disposal of the writ petition, W.P.M.P. No. 39017 of 2010 filed by the Petitioner for interim relief is disposed of as infructuous.