

(1992) 08 AP CK 0012

In the Andhra Pradesh High Court

Case No : Writ Petition No. 9865 of 1992

R. Hanman Singh

APPELLANT

Vs

The Revenue Divisional Officer, Narayanapet Division and
Another

RESPONDENT

Date of Decision : 06-08-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 3 ALT 369

Hon'ble Judges : P. Venkata Rama Reddi, J

Bench : Single Bench

Advocate : C.P. Sarathy, for the Appellant; Govt. Pleader, for the Respondent

Judgement

P. Venkata Rama Reddi, J.—Heard the learned Counsel for the petitioner and the learned Government Pleader for Civil Supplies.

2. The petitioner who is a licensee of Fair Price Shop has challenged the order of the Revenue Divisional Officer in his proceedings No.F/2062/1992 dt. 22-5-1992. By that order, the authorisation issued to the petitioner for running the Fair Price Shop No. 1 at Doultabad has been cancelled on the ground that the petitioner has been elected as the President of Doultabad Primary Agricultural Co-operative Society. In other words, the said election has been viewed as a disqualification to remain as a Fair-Price Shop dealer. In this connection a reference was made in the impugned order to G.O.Ms. No. 951, Food & Agriculture, dated 16-5-1988. A perusal of the impugned order shows that no opportunity of submitting an explanation was afforded to the petitioner. It is axiomatic that before passing a statutory order prejudicially affecting the rights of a person, the principles of natural justice have to be complied with unless the statutory provision itself excludes their applicability or the nature of power conferred is such that the observance of principles of natural justice would cause detriment to larger public interest. The mere fact that a Statute or Rule is silent with regard to observance of principles of natural justice is no ground to dispense with them. Where there is

an obligation to follow the principles of natural justice, it is no answer to say that the petitioner will not be able to substantiate his case even if opportunity is given. It is no doubt true, as contended by the learned Government Pleader, that by the amended proviso to Clause (3) of the A.P. Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973, the requirement of giving reasonable opportunity and hearing to the petitioner was deleted. But by this deletion it does not necessarily follow that the Control Order intended to exclude in all cases the applicability of the principles of natural justice. The very fact that an enquiry is still contemplated even under the amended provision implies that the basic principles of natural justice are not intended to be excluded altogether. It may be that personal hearing or oral examination of witnesses is not compulsive under the amended proviso, but the dealer whose authorisation is sought to be cancelled should at least be given an opportunity to submit his explanation so that it may be considered by the competent authority together with the material available on record and suitable orders be passed by him. Even assuming that in exceptional cases, cancellation can be ordered straight-away without giving an opportunity of showing cause, I do not think that the present case is of such exceptional nature. I am therefore of the view that the unilateral decision taken by the appointing authority (Revenue Divisional Officer) is bad in law and I am therefore setting aside the impugned order dated 22-5-1992 on the short ground that the petitioner was not given an opportunity of making his representation and the appointing authority did not therefore consider the representation that could have been filed by the petitioner.

3. I am told that the petitioner's licence has expired and the application for renewal is pending. It is also stated by the learned Counsel for the petitioner that the petitioner is continuing to run the Fair Price Shop till to-day though the licence was cancelled about three months back. In the circumstances of the case, while quashing the impugned order, I dispose of the writ petition with the following directions:

The petitioner shall make a representation to the respondents within a period of two weeks from today to establish that there is no legal bar for being the dealer of Fair Price Shop despite his election as President of the Primary Agricultural Co-operative Society. The 1st respondent will, after considering this representation and having regard to the relevant provisions of law, pass appropriate orders as to whether the renewal of licence has to be granted or not. Pending disposal of the renewal application in the light of what I observed above, the petitioner shall continue to run the Fair Price Shop if the petitioner is running the shop as on to-day. No costs.