
(2010) 12 AP CK 0124

In the Andhra Pradesh High Court

Case No : Writ Petition No. 33417 of 2010

Smt. Nune Varalakshmi

APPELLANT

Vs

The Joint Collector and Others

RESPONDENT

Date of Decision : 30-12-2010

Acts Referred:

Essential Commodities Act, 1955 — Section 6A

Citation : (2010) 12 AP CK 0124

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

Bench : Single Bench

Advocate : Md. Saleem, for the Appellant; Assistant Government Pleader for Civil Supplies, for the Respondent

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—This writ petition is filed by the Petitioner feeling aggrieved by the order of Respondent No. 2 dated 18.10.2010, as confirmed in appeal by Respondent No. 1 vide his order dated 25.11.2010, whereby her fair price shop authorization was suspended and confirmed respectively.

2. I have heard Sri Md. Saleem, learned Counsel for the Petitioner and the learned Assistant Government Pleader for Civil Supplies.

3. The Petitioner is a fair price shop dealer of shop No. 3 of Masapet, Rayachoty town and Mandal, Kadapa District. On 16.10.2010, the Petitioner's shop was inspected by the Deputy Tahsildar along with Food Inspector and Mandal Revenue Inspector, Rayachoty. During the inspection, it was allegedly found that out of the total quantity of 162.75 quintals of PDS and AAY rice, there was a shortage of 3.60 quintals. Apart from initiating proceedings u/s 6A of the Essential Commodities Act, 1955, departmental proceedings had been initiated against the Petitioner. As part of these proceedings, order dated 18.10.2010 was passed by Respondent No. 2, whereby he has kept the Petitioner's authorization under suspension.

4. Questioning the said order, the Petitioner filed an appeal before Respondent No. 1. While declining to interfere with the order of Respondent No. 2, Respondent No. 1, vide his proceedings dated 25.11.2010, directed Respondent No. 2 to dispose of the case within a period of four weeks from the date of receipt of that order. Feeling aggrieved by this order, the Petitioner filed the present writ petition.

5. Inasmuch as the enquiry into the allegations made against the Petitioner is pending, it is not appropriate for this Court to render conclusive findings. However, for the limited purpose of adjudication of this case, it requires to be noted that the only allegation on which the Petitioner's authorization has been suspended is the alleged shortage of rice to the extent of 3.60 quintals out of 162.75 quintals which appears to be within permissible limits. Except this allegation, no other allegation of omission and commission on the part of the Petitioner has been made. While the departmental officials are entitled to make a strict vigil on the running of the fair price shops, in the guise of such vigilance, they shall not resort to undue harassment of the dealers. Prima facie, I am of the opinion that the extreme action of suspension of authorization on a flimsy ground of negligible variation in quantity of rice constitutes patent arbitrariness. The impugned order of Respondent No. 2 itself shows that the Petitioner has offered spot explanation that she has received the quantity of PDS rice from MLS point without any weighment . Whether this explanation is acceptable or not requires to be examined by the disciplinary authority in the enquiry proceedings. But by no means, the allegation made against the Petitioner is so serious as to warrant suspension of the authorization. Such unwarranted actions affect the morale of even the honest dealers. It is high time that the officers at the helm of affairs shall apply their mind to these vital aspects and ensure that in genuine cases only the action of interim suspension of authorization is taken instead of resorting to suspension in a routine manner on flimsy grounds.

6. The reason given by Respondent No. 1 in declining to interfere with the order passed by Respondent No. 2, namely, that as suspension is only interim in nature, he is not inclined to interfere with the same, cannot be appreciated either. Irrespective of whether the order is interim or final in nature, the appellate authority is under obligation to examine its sustainability or otherwise in law with reference to the facts of the case. Respondent No. 1 failed to apply this principle in disposing of the appeal.

7. In the light of the above findings, the impugned orders dated 18.10.2010 and 25.11.2010 of Respondent Nos. 2 and 1 respectively are set aside. Respondent No. 2 is directed to complete the enquiry and pass appropriate order after giving an opportunity of being heard to the Petitioner. Till passing of such order, the Petitioner shall be allowed to continue as fair price shop dealer.

8. Subject to the above directions, the Writ Petition is allowed.

9. As a sequel to disposal of the writ petition, W.P.M.P. No. 42392 of 2010 filed by

the Petitioner for interim relief is disposed of as infructuous.