

(2015) 10 AP CK 0004
In the Andhra Pradesh High Court
Case No : C.C. No. 361 of 2015

Tangirala Ramana Reddy

APPELLANT

Vs

M. Srinivasa Rao and Others

RESPONDENT

Date of Decision : 14-10-2015

Acts Referred:

Contempt of Courts Act, 1971 — Section 2(b)
Criminal Procedure Code, 1973 (CrPC) — Section 41(a)
Essential Commodities Act, 1955 — Section 6-A
Penal Code, 1860 (IPC) — Section 34, 353, 506

Citation : (2016) 1 ALD 547

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

Bench : Single Bench

Advocate : D. Krishna Murthy, for the Appellant

Judgement

C.V. Nagarjuna Reddy, J.—This Contempt Case is filed alleging willful disobedience of order dated 15-12-2014 in W.P. No. 37203 of 2014.

2. The facts leading to the filing of this Contempt Case, briefly narrated, are as under:

"The petitioner is the permanent fair price shop dealer of Shop No. 35 of Perurupadu village, Bollapalli Mandal, Guntur District. His authorization was suspended by respondent No. 1 vide proceedings in Rc. No. 5014/2014-B, dated 1-10-2014, on the following allegations :

(i) That the F.P. Shop Dealer has not maintained the F.P. Shop records properly which lead to found shortage of Q. 8.22 kg of rice and 61 Kgs of sugar and an excess of 4 litres of kerosene oil with reference to book balance thus he contravened Clause 22(viii) of the A.P. State Public Distribution System (Control) Order, 2008.

(ii) That the F.P. Shop dealer has not distributed PDS stocks properly in the month of September, 2014 to the cardholders and diverted the same into black

market by making fake entries in the sales/stock registers for his personal gain thus contravened Clause 17(a)(b) & (c) of the A.P. State Public Distribution System (Control) Order, 2008.

(iii) That the F.P. Shop dealer has not filed DD for all the ECs allotted to her Shop causing inconvenience to cardholders thus contravened Clause 5(1)(A) of the A.P. State Public Distribution System (Control) Order, 2008.

(iv) That the F.P. Shop dealer has failed to produce the FP Shop authorization to the inspecting officials thus contravened Clause 6(iii) of the A.P. State Public Distribution System (Control) Order, 2008."

3. Alleging that no inspection of his shop was held nor was any enquiry conducted before suspending the authorization, the petitioner approached this Court by filing W.P. No. 37203 of 2014. On the directions issued by this Court, respondent No. 1 personally appeared in the Court on 15-12-2014 and admitted that he had committed a mistake in issuing proceedings dated 1-10-2014 suspending the petitioners authorization and requested the Court to set-aside the same. This Court has accordingly set-aside the said proceedings and allowed the Writ Petition, leaving respondent No. 1 free to hold a detailed enquiry and pass a final order.

4. The petitioner averred that in pursuance of the said order of this Court, respondent No. 1 vide proceedings dated 24-12-2014 restored his fair price shop authorization and directed respondent No. 2 to allot essential commodities to his shop from the month of January 2015 and that when he approached respondent No. 2 requesting him to allot essential commodities to his shop, the latter bluntly refused to allot the stocks citing oral instructions from respondent No. 1 not to allot stocks pursuant to proceedings dated 24-12-2014. The petitioner further averred that respondent Nos. 1 and 2 have wilfully and intentionally disobeyed the order of this Court by refusing to supply the essential commodities for the months of January and February 2015 to his shop and allotting the same to the fair price shop dealer of Naidupalem village, on 2-1-2015 and 5-2-2015, respectively.

5. On 24-4-2015, this Court, on being satisfied with the prima facie case, admitted the Contempt Case. On 12-6-2015, the respondents personally appeared and filed counter-affidavits.

6. In the counter affidavit filed by respondent No. 1, he has inter alia stated that some cardholders of the petitioners fair price shop filed a petition on 17-9-2014 before the Tahsildar, Bollapalli, alleging that the petitioner was not distributing the essential commodities to them and that he was not maintaining the timings of the fair price shop as prescribed by the Government. That the Deputy Tahsildar, Ipuru Mandal conducted an inspection on 19-9-2014 into the said allegations and filed a report under Section 6-A of the Essential Commodities Act, 1955 (for short the Act) before the Joint Collector, Guntur as the Inspecting Officer found shortage of Q. 8.22 Kg. of rice and 61 Kg. of sugar and 4 litres of

Kerosene oil in excess of the permissible limit; that the Inspecting Officer vide letter dated 19-9-2014 requested respondent No. 1 to take disciplinary action against the petitioner; and that basing on the said report, the authorization of the petitioner was suspended vide proceedings dated 1-10-2014 while issuing a show-cause-notice calling upon him to explain the irregularities committed while distributing the essential commodities to the cardholders in the month of September 2014. He has further averred that the essential commodities have to be released on payment of amount by way of DD/Challans to be produced on or before 18th of every month for distribution in the next month before the Tahsildar concerned; that the petitioner has not remitted the amount in time for the months of January and February 2015 except in respect of Kerosene Oil for the month of February 2015 and therefore in-charge arrangements have been made by respondent No. 2 vide proceedings dated 30-12-2014 by allotting the stocks to F.P. Shop No. 28 for distribution to the cardholders; that subsequently on 16-2-2015, the petitioner filed challans for allotment of Kerosene Oil and requested to release the stocks for distribution to the cardholders; and that accordingly Kerosene Oil has been released to the petitioners fair price shop for eventual distribution to the cardholders for the month of February 2015. He has further averred that as the petitioner has not remitted the amount for release of the essential commodities except in respect of Kerosene Oil for the month of February 2015 and in respect of all the essential commodities for the month of March 2015, another proceedings Rc. No. 277/2014-B, dated 25-3-2015 were issued by respondent No. 2 keeping the neighbouring fair price shop dealer in-charge for distribution of the commodities in public interest. It was further averred that enquiry has been conducted and final orders vide Rc. No. 5014/2014-B, dated 30-5-2015 have been issued by dropping disciplinary proceedings against the petitioner. Respondent No. 1 accordingly pleaded that he has not violated the order of this Court, and that, if for any reasons this Court comes to the conclusion that he has violated the order, the same was not intentional or deliberate, and that he is tendering unconditional apology for the same.

7. In his counter affidavit, while reiterating the stand taken by respondent No. 1, respondent No. 2 averred that on 27-3-2015 some of the cardholders made a complaint against the petitioner; that on receipt of the complaint, the Deputy Tahsildar, Bollapalli and Village Revenue Officer (VRO), Perurupadu village have inspected the petitioners fair price shop; that at the time of inspection, 70 litres of Kerosene oil was found in short with reference to the book balance; and that as the variation was beyond the permissible limit, a case under Section 6-A of Act was filed before the Joint Collector, Guntur. It was further averred that during the course of inspection, the petitioner obstructed the Inspecting Officers and also threatened them with dire consequences; that in the said circumstances, the V.R.O., Perurupadu lodged a complaint against the petitioner before the S.H.O., Bandlamottu Police Station on 30-3-2015 for the offences under Sections 353, 506 and 34 IPC, registered as FIR No. 28/2015; that charge sheet has been filed

before the Judicial First Class Magistrate, Vinukonda on 15-4-2015 vide C.C. No. 199 of 2015; and that the Magistrate, Vinukonda has directed the petitioner to appear before the Court as and when required. Respondent No. 2 has further averred that the petitioner has not remitted the Demand Drafts for the months of April and May 2015 for release of the stocks and therefore in-charge arrangements have been made by allotting the stocks to Shop No. 28 in the interest of the cardholders. He has further averred that basing on the report filed by the Deputy Tahsildar, Bollapalli under Section 6-A of the Act, respondent No. 1 vide Rc. No. 2273/2015-B, dated 17-4-2015 issued show cause notice to the petitioner; that the petitioner submitted his explanation on 22-5-2015 and that as respondent No. 1 was satisfied with the explanation offered by the petitioner, the disciplinary action was dropped vide proceedings dated 30-5-2015. Respondent No. 2 has offered a similar apology to the one tendered by respondent No. 1.

8. The petitioner has filed reply affidavits to the counter-affidavits filed by respondent Nos. 1 and 2. In his reply affidavits the petitioner averred that that Kerosene was not supplied to his shop for the month of September 2014 and therefore there was no occasion for the Deputy Tahsildar to find excess stock balance of 4 litres of kerosene; that as a matter of fact Kerosene oil for the month of September 2014 was supplied to the fair price shop dealer of Naidupalem situated 6 K.M. away from the petitioners village; that the in-charge dealer did not supply the same and he sold away the entire stock in black market; and that the said fact was reported in the Press. He has further averred that the said instance amply proves that a false case was foisted against him for political reasons. The petitioner denied that the Deputy Tahsildar, Ipur Mandal conducted any inspection on 19-9-2014 and found variations of the stocks. That the alleged report dated 19-9-2014 is a false and fabricated document without conducting any inspection of the petitioners shop. That after the disposal of W.P. No. 37203/2014, the petitioner approached the respondents requesting for supply of the essential commodities to his fair price shop, but the respondents have deliberately refused to supply the same. The petitioner further averred that after filing of the present Contempt Case, the respondents have pressurized him to give a statement to the effect that he could not lift the stocks for the months of January and February 2015 due to financial problems and tried to prevail upon him to withdraw the Contempt Case; that as the petitioner did not agree to the said demands and refused to withdraw the contempt case, the respondents have supplied the stocks to his shop for the month of March 2015. It was further averred that the respondents have issued stocks to the petitioners fair price shop for the month of April 2015 on 27-3-2015 and immediately caused a raid on his shop on 29-3-2015 by two V.R. Os., i.e., one Mr. P. Madan Mohan, V.R.O., Perurupadu and Mr. B. Chinna Hanuma Naik, V.R.O. of Bollapalli-II; that the said raid was illegal as the said officers have no authority or power to conduct the raid on a fair price shop and that it is the Deputy Tahsildar (CS) or any other officer above his rank who is competent to conduct the raid on fair price shops. That

though the raid was conducted on 29-3-2015, no report was prepared at the shop; that a fabricated and false report was supplied to the petitioner on 3-4-2015 and that he was not allowed to put the date of service of the report on him on the office copy. The petitioner further averred that the respondents have asked the V.R.O, Perurupadu to file a criminal case against him; that accordingly the V.R.O, Perurupadu filed a criminal complaint against the petitioner and another woman on 29-3-2015 before the S.H.O., Bandlamottu Police Station under Sections 353 and 506 IPC; that he was arrested on 30-3-2015 and detained in the Police Station till 2-4-2015 and that he was released on bail on 3-4-2015. The petitioner specifically averred that the respondents have harassed him and caused lot of mental torture after filing this Contempt Case and for refusing to withdraw the same as per their demands. The petitioner denied the allegation that he has not submitted the Demand Drafts for the months of January and February 2015 and stated that the same is invented by the respondents for the purpose of their defence in the Contempt Case. That he was ready with the money for lifting of stocks and went round the office of respondent No. 2 for allotment of stocks, but that respondent No. 2 refused to allot the stocks. That if the respondents were willing to supply stocks to his fair price shop, there was no necessity for him to approach this Court by filing the present Contempt Case. The petitioner has further averred that the respondents are playing to the tunes of the local M.L.A. and have intentionally and deliberately violated the order of this Court.

9. On 3-7-2015, during the course of hearing, this Court has noticed a serious contradiction between FIR No. 28/2015 and the charge sheet on the one side and the purported Panchanama and the report submitted by respondent No. 2 under Section 6-A of the Act on the other side. While as per the Police report and the charge sheet, only the V.R.O. of Perurupadu along with the V.R.O. of Bollapalli-II and two Village Assistants have inspected the petitioners fair price shop on 29-3-2015, as per the report sent by respondent No. 2 and also the Panchanama, the Deputy Tahsildar was also shown to have inspected the shop. As the learned Government Pleader for Civil Supplies (AP) was unable to explain the said serious contradiction, on 24-7-2015, she has requested for an adjournment for filing of affidavits by respondent No. 1 and the Deputy Tahsildar, Bollapalli. Accordingly,, respondent No. 1 has filed an additional counter affidavit and the Deputy Tahsildar, Bollapalli has filed his affidavit.

10. In the additional counter affidavit filed by respondent No. 1, he has inter alia stated that on the instructions of the then Tahsildar, Bollapalli, the Deputy Tahsildar has inspected the petitioners fair price shop along with V.R.O., Perurupadu village and Village Revenue Assistants on 29-3-2015 and found certain irregularities in the distribution of essential commodities; that in the registers for the month of March 2015, in respect of Kerosene oil, there was a shortage of 70 litres, which is beyond the permissible limits and therefore the Deputy Tahsildar, Bollapalli has filed a case under Section 6-A of the Act before the Joint Collector, Guntur and requested respondent No. 1 to take necessary

disciplinary action against the petitioner; that basing on the said report, a show cause notice was issued to the petitioner vide Rc. No. 2273/2015-B, dated 17-4-2015 and the same was served on the petitioner on 18-5-2015. It was further averred that the mentioning of Mandal Revenue Officer, Bollapalli in the show cause notice issued to the petitioner, as having inspected the petitioners fair price shop when in fact it was the Deputy Tahsildar, Bollapalli, who has inspected the shop, is a typographical mistake occurred while preparing the said notice.

11. In the affidavit filed by the Deputy Tahsildar, Bollapalli he has averred that as per the instructions of the then Tahsildar, Bollapalli, he has proceeded to Perurupadu village along with the In-charge Mandal Revenue Inspector, Bollapalli, V.R.O. and the Village Revenue Assistants of Perurupadu village on 29-3-2015 and inspected the petitioners fair price shop; that during the course of inspection 70 litres of Kerosene oil was found in short when compared with the book balance; that 139 card holders pertaining to the petitioners fair price shop who were enquired by him stated that the petitioner was distributing the essential commodities at higher rates than the prices notified by the Government; and that during the enquiry, the petitioner has not given proper explanation/answer regarding the irregularities, for which a case under Section 6-A of the Act was filed before the Joint Collector, Guntur. He has further averred that after completion of the inspection, he has instructed the V.R.O. to bring all the connected records from the petitioners fair price shop to the office of the Tahsildar, Bollapalli and left Perurupadu village for Bollapalli; that later he came to know through the FIR and the statement of the V.R.O. given before the police to the effect that while the V.R.O. was proceeding to Bollapalli along with the seized records, the petitioner along with another woman i.e., Smt. Tangirala Venkata Kotamma w/o. Kotireddy, have obstructed the V.R.O. and threatened him by using filthy language that they would see his end; that the V.R.O. has filed a complaint before the SHO, Bandlamottu P.S. on 29-3-2015 in this regard; that the SHO, Bandlamottu P.S. has filed a criminal case in FIR No. 28/2015 dated 30-3-2015 under Sections 353, 506 and 34 IPC against the petitioner and Smt. Tangirala Venkata Kotamma; that charge sheet was filed on 20-4-2015; that the Sub-Inspector of Police, Bandlamottu P.S. issued notice under Section 41(a) Cr.P.C. to the petitioner and the said woman to approach the S.H.O., with sufficient security bonds and certificates for releasing them on bail.

12. Upon considering these affidavits, this Court has called for the file relating to the investigation in F.I.R. No. 28 of 2015 of Bandlamottu Police Station. Accordingly, SHO, Bandlamottu P.S. produced the file which is placed on record.

13. Mr. D. Krishna Murthy, the learned Counsel for the petitioner, advanced the following submissions:

"i) The respondents have committed grave violation of the order dated 15-12-2014 in W.P. No. 37203 of 2014 by not supplying essential commodities to the petitioner for the months of January and February 2015.

ii) That the respondents have acted in a schematic manner by making it appear on paper that respondent No. 1 has implemented the order by issuing proceedings on 24-12-2014 directing respondent No. 2 to allot the essential commodities to the petitioner and at the same time orally instructing respondent No. 2 not to allot essential commodities to the petitioner and that as a part of this diabolical scheme, respondent No. 2 has issued proceedings dated 30-12-2014 allotting the essential commodities for the months of January and February 2015 to the fair price shop dealer of shop No. 28 on the purported ground that the petitioner has not remitted the value of the essential commodities through challan within time.

iii) That on coming to know about the petitioner filing the present Contempt Case, the respondents felt constrained to release the February quota of Kerosene oil and also all the essential commodities for the month of March 2015, but they have again kept the fair price shop dealer of shop No. 28 in-charge of the petitioners shop from the month of April 2015 vide proceedings dated 25-3-2015 of respondent No. 2 as the petitioner has refused to succumb to their pressure to withdraw the Contempt Case.

iv) That with a view to overreach and overcome the order of this Court, the respondents have engineered another inspection during the pendency of the present Contempt Case by two Village Revenue Inspectors, namely V.R.O. of Perurupadu and V.R.O. of Bollapalli-II on 29-3-2015, who are not competent to inspect, got a false FIR registered for the alleged offences under Sections 353 and 506 IPC r/w. Section 34 IPC and got proceedings initiated under Section 6-A of the Act under a false report.

v) That the entire conduct of the respondents during the pre and post filing of the Contempt Case undoubtedly establishes that they wanted to discontinue the petitioner as fair price shop dealer at any cost and in the process they have not only indulged in brazen violation of the order of this Court but also acted with vengeance and malice and tried to mislead this Court into believing that it is only on account of the petitioners failure to remit the value of the commodities that they could not implement the order of this Court."

14. The learned Government Pleader for Civil Supplies (AP) submitted that the respondents have no intention of violating the order of this Court and that it is only due to the failure of the petitioner to remit the value of the essential commodities for the months of January and February 2015, except for kerosene oil for the month of January 2015, and also from the month of April 2015, that the respondents could not allot the essential commodities to his shop. She has denied the allegation that the Deputy Tahsildar has not inspected the petitioners shop on 29-3-2015. She has placed reliance on the report sent under Section 6-A of the Act by respondent No. 2 in support of her submission that it was the Deputy Tahsildar who has inspected the shop on 29-3-2015. She has further submitted that as the petitioner has remitted the value of stocks for the month of April 2015, stocks were released on 27-3-2015 and eventually the proceedings

initiated based on the inspection conducted on 29-3-2015 were closed and the petitioner was exonerated of the alleged irregularities connected with the inspections dated 19-9-2014 and dated 29-3-2015.

15. I have carefully considered the respective submissions of the learned Counsel for the parties and perused the record.

16. For convenience, I would like to consider the case in two parts. The first part relates to the pre-contempt case period and the second part relates to the post-contempt case period. Let me first deal with the pre-contempt case period.

17. Upon a prima facie examination of order dated 1-10-2014 whereunder the petitioners authorization was suspended, this Court felt that the allegations made against the petitioner did not warrant such suspension and having regard to the plea raised by the petitioner that the suspension order was passed under local political pressure, this Court has ordered personal appearance of respondent No. 1. Respondent No. 1 accordingly appeared before this Court on 15-12-2014 and conceded that he has committed a mistake in suspending the petitioners authorization. He has also requested this Court to set aside the suspension order, leaving him free to hold a detailed enquiry and to pass a final order. Accordingly, this Court has set-aside the said order permitting respondent No. 1 to hold an enquiry and pass a final order. Following the said order of this Court, respondent No. 1 has issued proceedings dated 24-12-2014 restoring the petitioners authorisation subject to the outcome of the detailed enquiry and directed respondent No. 2 to allot essential commodities to the petitioners shop from the month of January 2015 and to watch the distribution of the commodities to the card holders and report compliance.

18. Interestingly, despite the said order of respondent No. 1, respondent No. 2 has allotted the essential commodities in the name of T.V. Ramana, the fair price shop dealer of Naidupalem village. Similarly, for the month of February 2015 also, the essential commodities attached to the petitioners shop were allotted to the said dealer. The explanation offered by the respondents in this regard is that as the petitioner failed to remit the value of the essential commodities for both these months, respondent No. 2 was constrained to allot the essential commodities to another dealer.

19. Very genuine this explanation as it sounds when examined superficially, a deeper scrutiny exposes the respondents bluff. The voluminous record filed by the respondents does not show that when the petitioner allegedly failed to remit the value of the essential commodities for both these months, neither of the two respondents has initiated any action under Clause 5(1)(B) of the A.P. Public Distribution System (Control) Order 2008, (for short the Control Order) which reads as under :

"(i) In case (of) any fair price shop dealer/nominated retailer fails to remit the value of the allotted scheduled commodities on or before the date fixed, a penal fee of Rs. 500/- (Rupees five hundred only) per day shall be levied for each such

occasion.

(ii)

(iii) If the fair price shop dealer/nominated dealer repeats the same lapse consecutively for 3 months, his/her authorization shall be liable for suspension and cancellation."

20. As per the above Clause, when the petitioner has failed to lift the essential commodities for two consecutive months, the respondents were duty bound to levy penal fee of Rs. 500/- per day. It is not the pleaded case of the respondents that any such penal fee was levied for the months of January and February 2015 on the petitioner or at least a notice was issued to the petitioner pointing out his failure to lift the stocks. This failure of the respondents thoroughly exposes the falsity of their plea that due to the petitioners failure to remit the value of the essential commodities, allotment of the commodities was made in favour of another dealer for the said two months.

21. There is another angle from which the veracity of the plea of the respondents could be examined. If non-remittance of the value of the essential commodities for the months of January and February 2015 by the petitioner was the reason for non-allotment of essential commodities to him, it defies any logic or reason that the petitioner would selectively remit only the value of stock for Kerosene Oil for the month of February 2015 and distribute the same. The learned Counsel for the petitioner submitted that having deliberately refused to receive challans from the petitioner towards value of the essential commodities for the months of January and February 2015, the respondents have allowed the petitioner to remit the value of Kerosene Oil through challan for the month of February 2015 on coming to know that the petitioner has filed the Contempt Case. He has further explained that by the date of knowledge of the respondents about the filing of the Contempt Case on 18-2-2015, the time for remittance of the value of essential commodities, excluding Kerosene Oil, expired and that therefore they have allowed the petitioner to remit the value of stock for Kerosene Oil for the month of February 2015. I find merit in this submission. A perusal of the record shows that the Contempt Case is dated 12-2-2015 and therefore it is reasonable to presume that immediately on acquiring the knowledge of filing of the Contempt Case they have allowed the petitioner to remit the value of the stock of Kerosene Oil and allowed him to distribute the same.

22. The petitioner has filed a copy of the representation addressed to respondent No. 2, with copies marked to respondent No. 1 and the Joint Collector, wherein he has categorically stated that respondent No. 1 has issued proceedings dated 24-12-2014 restoring his fair price shop authorisation and directing respondent No. 2 to allot the essential commodities; that inspite of the same, respondent No. 2 has not allotted the essential commodities for the month of January 2015 and that he may be allotted the essential commodities at least from the month of February 2015. The office seal of respondent No. 2 available on this

representation shows that the same was received on 28-1-2015. It is not possible to believe that a person who has committed default in remitting the value of the essential commodities would have the courage to make a representation expressing grievance of non-allotment of the essential commodities to his shop and even if such representation is made, the respondents would remain quiet without questioning his action in not remitting the challans for the value of the essential commodities on the one hand and making a false representation on the other. Further, having questioned the arbitrary action of respondent No. 1 in suspending his authorization by filing a Writ Petition, there could be no reason for the petitioner to develop sudden disinterestedness in remitting money and lift the commodities. Such conduct on the part of the petitioner militates against the conduct of persons of ordinary prudence.

23. Admittedly, respondent No. 1 is not only the appointing authority but is also vested with the disciplinary powers of suspension and cancellation of authorisations. He is also vested with the power to make alternative arrangements for distribution of essential commodities wherever the authorisations are either suspended or cancelled. Concededly, respondent No. 2 does not have any independent power to take decisions on his own in a situation as the present one where the fair price shop dealer has allegedly failed to discharge his functions. Therefore, if the petitioner has failed to lift the commodities, respondent No. 2 being the subordinate to respondent No. 1 is bound to report the said fact to respondent No. 1. It is not the pleaded case of the respondents that respondent No. 2 has, at any point of time, sent a report to respondent No. 1 about the alleged gross dereliction of duty by the petitioner. While it is exclusively within the powers of respondent No. 1 to initiate action against the petitioner and also to make alternative arrangements for distribution of commodities, instead of informing him about the alleged gross misconduct of the petitioner and requesting him for taking such measures, respondent No. 2 made allotment of the essential commodities in favour of another dealer. No explanation is forthcoming from respondent No. 2 as to why he has not reported the matter immediately to respondent No. 1 and requested him to take action against the petitioner under the Control Order. As noted above, the alleged act of the petitioner in not furnishing the value of the essential commodities for the months of January and February 2015 itself constitutes serious misconduct, attracting the levy of penal fee of Rs. 500/- per day. If the petitioner is really guilty of the said misconduct, it is wholly inconceivable that respondent No. 2 has not reported the same to respondent No. 1 and the latter has not initiated action for imposing the penal fee prescribed under Clause 5(1)(B) of the Control Order. The respondents have failed to offer any explanation in this regard.

24. From the discussion undertaken above, the following conclusions are irresistible:

"(1) that the respondents have acted in the most schematic manner i.e., by

conceding before this Court that the order dated 1-10-2014 suspending the petitioners fair price shop authorization was by mistake; but at the same time not permitting the petitioner to function as the dealer;

(2) that respondent No. 1 played safe by issuing proceedings dated 24-12-2014 restoring the petitioners authorisation on paper in pursuance of the order in the Writ Petition and directing respondent No. 2 to allot the essential commodities to the petitioners fair price shop as a trade without intending to implement the same and the respondents, in utter defiance of the orders of this Court denied allotment of essential commodities to the petitioners fair price shop taking shelter under the alleged failure of the petitioner to remit the value of the essential commodities."

25. I shall now deal with the post-contempt case period.

26. On 28-2-2015, respondent No. 2 has made allotment of essential commodities in favour of the petitioners fair price shop for the month of March 2015. Significantly, ten days before such allotment was made, the Contempt Case was served on the Government Pleader. Having allowed the petitioner to resume his functions as the fair price shop dealer, obviously under pressure of the Contempt Case, an attempt was made by the respondents to discontinue him once again. In the context of allotment of essential commodities for the month of April 2015, respondent No. 2 has issued another proceedings vide Rc. No. 277/2015/B, dated 25-3-2015, which is similar to proceedings dated 30-12-2014, once again alleging that the petitioner has failed to pay the amounts towards the value of the essential commodities within time and therefore he is temporarily appointing T.V. Ramana, the fair price shop dealer of shop No. 28 as in-charge dealer. A couple of days later, a complaint purportedly signed by about 20 card holders addressed to respondent No. 2 was received by him, basing on which another inspection (termed as raid by the petitioner) was effected on the petitioners shop on 29-3-2015. There is a serious dispute as to the persons who have inspected the petitioners shop on that day. A Police report has been lodged against the petitioner and another alleging that they have abused and threatened the inspecting officials during the inspection. While the petitioner pleaded that the purported inspection was made by the V.R.O. of Perurupadu and the V.R.O. of Bollapalli Mandal-II, who are admittedly not authorised to inspect any fair price shop, it is the case of the respondents that the Deputy Tahsildar, Bollapalli Mandal has inspected the shop. In order to know the truth, this Court has summoned the record pertaining to F.I.R. No. 28 of 2015, registered on the police report. The report given by the V.R.O. of Perurupadu shows that on 29-3-2015, on the instructions of respondent No. 2, he along with the V.R.O. of Bollapalli-II along with Perurupadu Village Servants inspected the petitioners shop and that during the said inspection, the petitioner along with another woman T.V. Kotamma, has misbehaved and threatened them and thereby obstructed public servants from discharging their duties. On the said report, a crime was registered under FIR No. 28 of 2015 for the offences under

Sections 353 and 506 IPC r/w. Section 34 IPC. In Case Diary, Part-I, dated 30-3-2015, relating to the said crime, the SHO, Bandalamottu, mentioned as under :

27. This day i.e., on 30.03.1995 at 6.00 p.m. one P. Madan Mohan, VRO, Perurupadu village, Bollapalli Mandal came to the police station and presented a written report addressed to the S.I. of police, and the contents of the report which runs as follows.

28. The complainant has been working as a Mandal Revenue Officer (sic: Village Revenue Officer), Perurupadu village. On the instructions of the Tahsildar, Bollapalli Mandal he along Bollapalli-II VRO B. Chinna Hanuma Naik and the village servants of Perurupadu village went to Dealer shop No. 35 for inspecting the shop and while they are inspecting the shop, the shop dealer Tangirala Ramana Reddy threatened him saying that he was cause any suspension he may also cause made him suspension. There after the another woman Tangirala Venkata Kotammam w/o. Koti Reddy also threatened him saying to hack the karanam. They obstructed him while inspecting the shop. There after the dealer took the Photostat copy of Sales Register and stock register and he tried to snatch the original stock register and sales register. Hence informing the truth.

29. In the Case Diary-I it is further stated that the SHO has examined the complainant in the Police Station as LW-1; and that he has recorded detailed statement of LW-1 in Part-II of the Case Diary. Adverting to his examination of LW-1, the SHO recorded as under :

"L.W.1 P. Madan Mohan : He is the complainant in this case. On examination he stated that he is the resident of Perurupadu village and he has been working as a V.R.O. to the village Perurupadu of Bollapalli Mandal. On the instructions of the Tahsildar, Bollapalli Mandal he along with the VRO Bollapalli-II and the village servants of Perurupadu village went to the Dealer shop No. 35 in Perurupadu village on 29.03.2015 at about 1.00 p.m. and inspecting the stock and other records of the shop. Then A1 who is the dealer of that shop threatened him saying that if he was caused any suspension on the inspecting the shop he will also cause made him suspension and A2 who was also there threatened him saying to hack him. There after they both obstructed his duty when he is inspecting the dealer shop. There after he has given the Photostat copy of the sales register and stock register at the Photostat of B. Lalu Hessen. At that time A1 tried to snatch the original stock register and sale register of the dealer shop which was seized by him. There after he came to the police station and presented a report with a request to take action against the above persons who obstructed and threatened him while performing his legitimate duties and etc., facts."

30. The Case Diary Part-II, dated 31-3-2015, contained the statements of B. Chinna Hanuman Naik, V.R.O., Bollapalli-II, examined as LW-2, and the two Village Servants examined as LW-3 and LW-4, who in one voice repeated what

the V.R.O., Perurupadu, examined as LW-1, has stated, namely, that he along with the V.R.O., Bollapalli-II and the two Village Servants (LW-3 and LW-4) have inspected the petitioners shop, during which the latter has obstructed them from discharging their public duties. Based on the said statements, the SHO has filed charge sheet wherein it is categorically stated that on the instructions of the Mandal Tahsildar, Bollapalli Mandal, LW-1 along with LW-2 to LW-5, visited the petitioners fair price shop on 29-3-2015.

31. While this is the position reflected on the record of the criminal case, the records maintained by the respondents unfolds a different story. The purported report under Section 6-A of the Act submitted to the Joint Collector, Guntur shows that the same has emanated from the Deputy Tahsildar, Bollapalli wherein it is reported that on receipt of reliable information about the irregular distribution of essential commodities by the petitioner, he has inspected the petitioners shop along with mediators, the Mandal Revenue Inspector of Bollapalli and the V.R.O. of Perurupadu village on 29-3-2015. In his charge Memo issued to the petitioner by respondent No. 1 vide proceedings in Rc. No. 2273/2015, dated 17-4-2015 also, it is stated that the inspection was made by the Deputy Tahsildar, Bollapalli along with other subordinate officers. A perusal of the report under Section 6-A of the Act signed by the Deputy Tahsildar shows that the inspection was made on 29-3-2015, and the report was sent on 4-4-2015.

32. The petitioner specifically alleged that none of the reports, including the mediation report, was prepared at his shop and that they were subsequently fabricated.

33. Under the extant Control Order, no officer below the rank of Deputy Tahsildar belonging to the Revenue Department is competent to inspect a fair price shop. If the Deputy Tahsildar has led the inspection, he was the one who was expected to give the Police report when a serious accusation was made against the petitioner that he tried to prevent the public servants from discharging their duties by threatening and abusing them. In order to explain away the reason for his not giving such complaint, the Deputy Tahsildar in his affidavit, filed on the direction of this Court, stated that after completion of the inspection he has directed the V.R.O., Perurupadu to bring all the connected record seized from the petitioner to the office of the Tahsildar, Bollapalli, left Perurupadu village and proceeded to Bollapalli and that later he came to know from the records that the FIR and the statements were given by the V.R.O., before the police officials. Even if this version is accepted as true, the same should have reflected in the report given by the V.R.O., Perurupadu to the police. No explanation is forthcoming from the respondents as to why the first informant has not mentioned in his report that the inspection team was led by the Deputy Tahsildar. As seen above, neither the first informant nor LW-2 to LW-4 referred to the presence of the Deputy Tahsildar at any point of time of inspection. These facts clinchingly establish without any cavil of doubt that as a part of their endeavour to force him out of dealership, the respondents were continuously harassing the petitioner by

engineering repeated inspections, at times by sending incompetent persons and resorted to acts of suspension, discontinuance of allotment of essential commodities despite the order of this Court and foisted a criminal case. Obviously, after realising that the two unauthorised Village level Revenue employees who have no power or authority to inspect fair price shops were made to inspect the petitioners shop, the respondents have fabricated the report under Section 6-A of the Act by roping in the Deputy Tahsildar into inspection episode and got a false report sent by him, four days after the inspection of the petitioners shop claiming that he has inspected the petitioners shop on 29-3-2015. The sequence of the events referred to above prove without any doubt that in their constant endeavour to dislodge the petitioner from the dealership they have deliberately and consciously circumvented the order of this Court.

34. It is pertinent to note that the Contempt Case was admitted and Form-I notice was issued on 24-4-2015 directing the appearance of the respondents on 5-6-2015. On 30-5-2015, respondent No. 1 has issued two separate proceedings i.e., Rc. No. 2273/2015-B and 5014/2014-B whereunder he has dropped the action initiated against the petitioner based on the inspections dated 29-3-2015 and 19-9-2014 respectively. The remarks sent by respondent No. 2 and referred to in the order pertaining to inspection dated 19-9-2014 make an interesting reading, which are as follows:

"(1) Sri T. Ramanareddy, FPSD has been appointed as permanent FPSD of Perurupadu village about 9 years back.

(2) The FP Shop dealer used to file DDs/Challans every month within stipulated time and distributing ECs to cardholders from 1st week of the month.

(3) The FP Shop dealer used to take the signatures/thumb impressions of the cardholders in the sale register while issuing ECs.

(4) The FPSD used to handover the sales registers in the Tahsildars office, Bollapalli on the last day of the month.

(5) When enquired the cardholders of Perurupadu village they expressed their satisfaction on distribution of ECs by Sri T. Ramana Reddy (FPSD).

(6) The explanation submitted by the FPSD to the charges levelled against him may be considered as genuine."

35. The above remarks show that there is a sudden volte-face by the respondents. The petitioner who is perceived as one who is indulging in serious irregularities in running the fair price shop, is suddenly found to be a man of virtues. This sudden shift in the stand of the respondents would speak eloquently of their conduct and character. Having found themselves in an indefensible situation, with this Court ordering their personal appearance on admission of the Contempt Case, the respondents wanted to wriggle out of the trouble and resorted to appeasement policy by exonerating the petitioner of all the charges.

The respondents are thus not only guilty of wilful and conscious violation of the order of this Court, but have also exhibited devious conduct not expected of public servants holding the offices of Revenue Divisional Officer and Tahsildar, respectively.

36. That respondent No. 1 is a habitual violator of this Courts orders is evident from the following:

"In Tanneeru Rama Kotaiah (Dealer of fair price shop No. 15, Kotcherla village, Ipur Mandal, Guntur District) v. M. Srinivasa Rao¹, Revenue Divisional Officer, (CS), Narasaraopet, Guntur District, respondent No. 1 herein, in combination with another Tahsildar, indulged in a similar act. In that case, the essential commodities were seized under panchanama dated 12-12-2014 on the sole allegation that there was excess stock of 93 Kgs. out of 51.98 Quintals of P.D.S. rice. Seeking quashing of the said panchanama, the dealer has filed W.P. No. 38568 of 2014, which was allowed by this Court by order dated 16-12-2014. Purporting to implement the order of this Court and having resumed supplies from January 2015, respondent No. 1 and the Tahsildar concerned have abruptly discontinued the supply of essential commodities from the month of March 2015. When the dealer has filed C.C. No. 262 of 2015, they have come out with an almost identical defence, namely, that the dealer has failed to remit the value and lift the essential commodities from March 2015, though allotments were being regularly made. While disbelieving the said version, this Court, in its order dated 18-9-2015, made the following observations:

Respondent No. 1 has come to the adverse notice of this Court in more than one case. A contempt case wherein serious allegations have been made against him and his subordinate Tahsildar, is pending consideration before this Court. His conduct over a period suggests that he along with his subordinates have been foisting cases against fair price shop dealers due to external pressure. The very fact that in the instant case action was sought to be taken on the alleged excess of 93 Kgs. out of 51.98 Quintals of PDS rice itself would show that the respondents have been acting for extraneous reasons. Therefore, this Court is not prepared to believe the statement of respondent No. 2 that due to the petitioners ill-health he has not lifted the essential commodities. It is not the pleaded case of the respondents that they have issued any notice to the petitioner for not lifting the essential commodities during the said month. Having discontinued supplies from February 2015, the respondents have resumed supplies obviously on coming to know that this contempt case was filed on 16.2.2015. Based on this conduct of the respondents, the plea of the petitioner that he is being harassed, is worthy of acceptance. However, as the respondents have resumed supplies from March, 2015, this Court is inclined to take a lenient view and close the contempt case with a warning to the respondents not to indulge in the acts of harassment or foisting of false cases against the petitioner in future."

37. In G. Koteswara Rao v. E. Murali², Revenue Divisional Officer, Gurazala

Mandal, Guntur District and another, the respondents therein have adopted a similar ploy, namely, making allotment of essential commodities on paper in favour of the dealer, but supplying the same for distribution to another dealer on the stock ground of non-remittance of the value of the commodities. This Court, by its above noted detailed Judgment deprecated the said practice and convicted the respondents therein for wilful violation of the order of this Court.

38. This Court has come across many cases of similar nature wherein while purporting to implement the orders of this court setting aside suspension orders on paper, as respondent No. 1 did in this case, the officials however do not allot essential commodities by coming out with the stereotyped defence that the dealers have not remitted the value of the commodities. The facts of this case as well as the instances pertaining to similar cases referred to above, would show that in order to get rid of some dealers not to the liking of the powers that be, the Revenue officials, such as the respondents herein, appear have been acting to a set pattern by raising the bogey of non-remittance of the value of essential commodities by the dealers. This tendency on the part of the Revenue officials is not only alarming but also distressing. This conduct constitutes official and moral delinquency on their part destroying the fabric of rule of law and subverting the judicial process. They being the public servants cannot allow themselves to be guided by extraneous reasons defiling the sanctity of the judicial orders. They are showing their ingenuity by adopting abhorrent tactics as a ploy to mock at and defeat the judicial orders. The whole conduct they have been exhibiting is a subterfuge and when their bluff is called, they are not hesitating to mislead the Court by coming out with blatantly false versions. Such conduct on the part of the public servants like the respondents is perilous and pernicious to a civilized society.

39. The respondents have indulged in the game of Cat & Mouse with the petitioner and Hide & Seek with this Court, obviously at the behest of the local extraneous forces. This Court therefore feels that they do not deserve any leniency under the provisions of the Contempt of Courts Act, 1971.

40. For the aforementioned reasons, the respondents are convicted under Section 2(b) of the Contempt of Courts Act, 1971 for wilful violation of the order of this Court dated 15-12-2014 and sentenced to imprisonment for one month in civil prison and pay a fine of Rs. 2000/- (Rupees two thousand only) each, and in default, to undergo imprisonment for one week. The subsistence allowance is fixed at Rs. 400/- (Rupees four hundred only) per day, to each of the respondents, to be borne by the petitioner under Rule 32(3) of the Contempt of Court Rules, 1980.

41. The Registrar (Judicial) is directed to take necessary steps for execution of this Judgment under Rules 31 and 33 of the said Rules.

42. The Contempt Case is ordered accordingly.

43. After the Judgment is pronounced, learned Government Pleader for Civil

Supplies (AP) representing the contemnors requested for suspension of the Judgment for a reasonable period to enable her clients to file an appeal. Having regard to this request, the Judgment is suspended for a period of four weeks from today.

1C.C. No. 262 of 2015, dt. 18-09-2015

2C.C. No. 1039 of 2015, dt. 21-08-2015