

**HON'BLE SRI JUSTICE G.SHYAM PRASAD**

**WRIT PETITION Nos.**

**16163, 16165, 16166, 16167, 16168, 16193, 16257, 16261, 16262 &  
16266 of 2019**

**COMMON ORDER:**

Since the issue involved in these Nine Writ Petitions is identical, this Court is inclined to pass the following Common Order. The factual situation in all the matters is similar. The facts in W.P.No.16163 of 2019, in brief, as stated are, as under:

These Writ Petitions are under Article 226 of the Constitution of India seeking to issue a writ of Mandamus filed for declaring the Proceedings Dt.Nil.09.2019 issued by the Respondent No.2 in suspending the authorization of the Fair Price Shop of the petitioners as illegal and arbitrary.

Heard learned counsel for the Petitioners and the learned Government Pleader for Civil Supplies appearing for respondents.

The case of the Petitioners is that the District Collector (CS), Kurnool, issued Proceedings dated..09.2019, suspending the authorization of the Petitioners' Fair Price Shop without giving any opportunity to submit their explanation to the show cause notice, keeping the date blank in the proceedings itself speaks volumes. There is no plausible reason from the Government why the date is kept blank in the proceedings of the District Collector (CS), Kurnool, and why that was not filled. Similarly, in the show cause notice

issued to the petitioners, the date was kept blank, but the month and year was mentioned as September, 2019. Therefore, the contention of the petitioner that the show cause notice was issued on the same day of issuance of proceedings by the District Collector appears to be true. However, the show cause notice clearly reveals that seven days time has been given for submitting the explanation. Even before receiving the explanation, the impugned order has been passed by the Collector suspending the authorization of the petitioners.

This is a case where show cause notice has been issued on Nil.09.2019 to the petitioners in respect of the irregularities committed in distribution of supply of essential commodities to the card holders. On the same day, the license of the petitioners have been suspended without giving any opportunity to submit their explanation.

Learned counsel for the Petitioners submits that clause 8(4) of the Control Order, 2018, contemplates an enquiry for suspension or cancellation of the authorization of the petitioners, but there is no enquiry. Since the show cause notice has been issued without giving sufficient opportunity to the petitioners to explain the variation in the stock, the Order of suspension is not in accordance with law and thereby liable to be set aside.

Learned Government Pleader for Civil Supplies submits that in view of the provisions under Rule 8(4) of the Andhra Pradesh

State Targeted Public Distribution System ( Control) Order, 2018 (for short the Control Order, 2018), vide G.O.Ms.No.15, dated 01.08.2018, and the provisions of Rule 21(C) of the said Control Order, 2018, the respondent authorities have a right to suspend the authorization of the petitioner and proceed with the enquiry if the authorities find any variation in the stock. Therefore, the Appointing Authority has suspended the authorization of the petitioner and proceeding with the enquiry by issuing show cause notice giving seven days time to submit the explanation by the petitioner. Since the petitioner has not submitted her explanation so far to the respondent authorities, the petitioner is not entitled for any relief in the present Writ Petition.

Rule 8 (4) of the Control Order,2018, as under:

*“ The Appointing Authority may, at any time in the public interest or on suo-motu or on receipt of complaint, after making such enquiry as may be deemed necessary and for reasons to be recorded in writing, suspend or cancel the authorization issued or deemed to be issued to him/her under this clause.”*

Rule 20 (1) of the said Control order as under:

*“Any Officer or person authorized by the State Government or by the District Collector or by Collector ( Civil Supplies), the appointing authority or any officer of the Civil Supplies/other state Government Departments not below the rank of Revenue Inspector/Checking Inspector/enquiry inspect (Civil Supplies), or any Gazetted Officer of Vigilance and Enforcement Department of the State or any officer authorized in the behalf by the State Government not below the rank of a Sub Inspector of Police may enter the premises of the fair price shop or any private premises where the schedule commodities pertaining to Targeted Public Distribution System or other Government schemes are kept/positioned or found in transit and conduct inspection and seize any stocks of scheduled commodities, supply documents or books, account or other related document for the purpose of such inspection/seizure for contravention of the provisions of this Order. Officers of Legal Metrology Department, Team of Social Audit appointed by Commissioner of Civil Supplies are also empowered to inspect the fair price shop premises, in regard to weighs and measures.”*

In the light of above provisions, it is obvious that the respondent authorities have passed orders without conducting the enquiry.

The authorization either can be suspended/cancelled only after conducting the enquiry. The enquiry means giving a show cause notice. It is for the respondent authorities to consider the explanation submitted by the petitioner and if not satisfied, may proceed with the cancellation of suspension/cancellation of the authorization. Even for suspension of authorization, certain procedure to be followed by giving opportunity to the respondent to submit his explanation. Before cancellation of authorization also, an enquiry to be conducted as per the provisions under Rule 8 (4) and as per the Andhra Pradesh State Targeted Public Distribution System (Control) Order, 2018.

It is the case of the petitioner that due to political pressure, the respondents conducted inspection on the shop and found variations in distributing essential commodities of PDS Rice, sugar etc.

The grievance of the petitioners is that their authorisations have been suspended on the same day of issuance of the show cause notice without giving him any

opportunity to submit explanation and thereby, the 2<sup>nd</sup> respondent has not followed the procedure contemplated under clause 8(4) of the Control Order, 2018 by giving a reasonable opportunity to the petitioners to explain the variation, before suspending the authorisation.

Therefore, this court is of the considered view that the impugned order of suspension is not in accordance with law and therefore, it is liable to be set aside. Accordingly, the impugned order is set aside. The petitioners are directed to submit their explanation to the respondents with regard to the impugned show cause notice within one week from the date of receipt of copy of this order. On receipt of the petitioners' explanation, the respondents shall complete the enquiry within four weeks thereof. Till completion of the enquiry, the respondents shall supply essential commodities to the petitioner's fair price shop.

With these observations, the Writ Petitions are disposed of. No costs. Miscellaneous petitions pending, if any, shall stand closed.

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**JUSTICE G. SHYAM PRASAD**

31.10.2019  
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