

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION No.32493 OF 2015

Between:

Smt. Saraswathi Bai

...Petitioner

and

1. The State of Telangana, rep. by its Principal Secretary, Consumer Affairs, Food and Civil Supplies Department, Secretariat, Hyderabad and three others

...Respondents

JUDGMENT PRONOUNCED ON: 08.07.2024

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K.SARATH

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

JUSTICE K.SARATH

THE HON'BLE SRI JUSTICE K.SARATH**+WRIT PETITION NO.32493 of 2015**

%Dated 08.07.2024

Smt. Saraswathi Bai

...Petitioner

and

1. The State of Telangana, rep. by its Principal Secretary, Consumer Affairs, Food and Civil Supplies Department, Secretariat, Hyderabad and three others

Respondents

! Counsel for Petitioner: Sri V.Ravi Kiran Rao

^ Counsel for Respondents: Learned Assistant Government Pleader for Civil Supplies

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> HEAD NOTE :

? Cases referred : --

THE HON'BLE SRI JUSTICE K.SARATH**WRIT PETITION No.32493 of 2015****ORDER:**

This writ petition is filed by the petitioner requesting to direct the respondent Nos.2 and 3 to continue the petitioner as Fair Price Shop dealer of Fair Price Shop No.02, Tadi Hipperga Village, Madnoor Mandal, Nizamabad District by renewing her authorization.

2. Heard Sri V.Ravi Kiran Rao, learned Senior counsel appearing for the petitioner and learned Assistant Government Pleader for Civil Supplies appearing for the respondents and perused the entire material on record.

3. Learned Senior Counsel appearing for the petitioner submits that the petitioner is a Fair Price Shop dealer of Fair Price Shop No.02, Tadi Hipperga Village, Madnoor Mandal, Nizamabad District. The respondent-

authorities have conducted a surprise check on 23.03.2015 and also conducted a panchanama, alleging that there was additional stock of 35.70 quintals of rice and the same was placed at two or three places, thereafter, the respondent No.3 submitted a report to the respondent No.2, who is the Appointing and Disciplinary Authority of Fair Price Shop dealers under the A.P. State Public Distribution System (Control) Order, 2008. The respondent No.2 issued a show-cause notice No.A3/2465/2015, dated 04.04.2014 and after receiving the said show-cause notice, the petitioner submitted explanation on 15.04.2015 denying the allegations made against her. Taking into consideration of the explanation submitted by the petitioner, the respondent No.2 issued Memo No.A3/2465, dated 17.07.2015 and imposed penalty of Rs.3,000/- and further directed the petitioner to remit the same on or before 30.07.2015. In response

to the said Memo, the petitioner paid the penalty *vide* Treasury Challan on 25.07.2015.

4. Learned Senior Counsel appearing for the petitioner further submits that in view of the compliance of the orders, the respondent No.3 recommended for renewal of authorization of the petitioner, but the respondent No.2, without any valid reasons, has failed to renew the authorization of the petitioner. In view of the same, the petitioner approached this Court and filed W.P.No.30010 of 2015 on 14.09.2015. Pending writ petition, the respondent No.2 issued impugned proceedings No.A3/2465/2015, dated 23.09.2015 cancelling the authorization of the petitioner with immediate effect and forfeiting the entire trade deposit in favour of the Government.

5. Learned Senior Counsel appearing for the petitioner further submits that basing on enquiry report

alleged to have been submitted by the Assistant Supply Officer (CS), Bodhan and also basing on the complaints received from the card holders over telephone, the respondent No.2 has passed the impugned orders and in the impugned orders, the respondent No.2 has not considered the earlier order passed *vide* Memo in Lr.No.A3/2465/2015, dated 17.07.2015 imposing penalty and compliance of the said order by the petitioner. The respondent No.2 failed to consider the provisions of Clause 5(5) of A.P. State Public Distribution System (Control) Order, 2008 and also the principles laid down while deciding the cases arising under the provisions of A.P. State Public Distribution System (Control) Order, 2008 and the respondent No.2 has no power to review his own order which was complied by the petitioner. The Enquiry alleged to have been caused by the Assistant Supply Officer (CS), Bodhan was not known

to the petitioner and the same was done behind back of the petitioner. Once the respondents have imposed penalty, it amounts to termination of disciplinary proceedings initiated by the respondent No.2 and no further enquiry can be made ignoring the said order which was passed imposing penalty instead of cancellation of authorization of the petitioner. Without any fault on the petitioner, the respondent No.2 has issued the impugned orders for cancellation of authorization and the same is arbitrary and illegal and contrary to the A.P. State Public Distribution System (Control) Order, 2008 and requested to set aside the impugned Memo by allowing the Writ Petition.

6. On the other hand, learned Assistant Government Pleader for Civil Supplies appearing for the respondents basing on the counter submits that in view of the irregularities committed by the petitioner, the respondent

No.2 has issued Memo No.A3/2465, dated 17.07.2015 imposing penalty of Rs.3,000/- and the same was paid by the petitioner on 25.07.2015. In the meanwhile, on receipt of complaints from villagers against the Fair Price Shop dealer, the respondent No.2 instructed the Assistant Supply Officer, Bodhan to conduct door to door enquiry and submit his detailed report. As per the enquiry report submitted by the Assistant Supply Officer, Bodhan dated 12.08.2015, the respondent No.2 has passed impugned orders on 23.09.2015 cancelling the authorization and forfeiting the entire trade deposit of the writ petitioner and the competent authority has rightly passed the impugned proceedings for cancelling the authorization of the Fair Price Shop dealership and requested to dismiss the writ petition.

7. After hearing both sides and perusing the entire material on record, this Court is of the considered view

that the petitioner is working as a Fair Price Shop dealer of Fair Price Shop No.02, Tadi Hipperga Village, Madnoor Mandal, Nizamabad District. The respondent-authorities have conducted a surprise check to the Fair Price Shop of the petitioner on 23.03.2015 and issued show-cause notice to the petitioner on 04.04.2015 and in response to the same, the petitioner had submitted her explanation on 15.04.2015. After receiving the explanation of the petitioner, the respondent No.2 imposed penalty of Rs.3,000/- in proceedings *vide* Memo No.A3/2465, dated 17.07.2015 and directed the petitioner to remit the same on or before 30.07.2015. In compliance with the said Memo, the petitioner had deposited the same *vide* Treasury Challan on 25.07.2015. After receiving the same, the respondent No.3 addressed Letter *vide* No.A/10/2015, dated 03.08.2015 to the respondent No.2 with regard to the compliance of the orders of the

respondent No.2 and also requested to continue the petitioner as Fair Price Shop dealer. Thereafter, the respondents without issuing any notice to the petitioner issued the impugned orders cancelling the authorization of the petitioner. In the impugned orders *vide* proceedings No.A3/2465/2015, dated 23.09.2015 cancelling the authorization of the petitioner and forfeiting the entire trade deposit in favour of the Government.

8. Before issuing impugned orders, the petitioner filed Writ Petition No.30010 of 2015 on 14.09.2015 for renewal of authorization of the petitioner and the matter was adjourned for getting instructions by the Government Pleader. In the meanwhile, the respondent No.2 passed the impugned orders basing on the enquiry report submitted by the Assistant Supply Officer (CS), Bodhan, dated 12.08.2015. Once the competent

authority i.e., the respondent No.2 herein passed orders for imposing penalty of Rs.3,000/- on the petitioner on 17.07.2015 and without mentioning about the said proceedings and without issuing notice to the petitioner, the respondent No.2 once again imposed punishment of cancellation of authorization and forfeiting the entire trade deposit of the petitioner basing on the enquiry report from the Assistant Supply Officer (CS), Bodhan dated 12.08.2015.

9. Moreover, the respondent No.2 has no power to review his own orders as per A.P. State Public Distribution System (Control) Order, 2008. The petitioner has rightly contended that the respondent No.2, without power and jurisdiction to review his own order and without issuing notice to the petitioner, has conducted enquiry behind back of the petitioner.

10. After conclusion of disciplinary proceedings, the respondent No.2 cannot conduct second enquiry without issuing any notice to the petitioner and cannot impose punishment of cancellation of dealership and the said action of the respondent No.2 is arbitrary and illegal and in violation of A.P. State Public Distribution System (Control) Order, 2008. Therefore, the impugned orders are liable to be set aside on the ground that the respondent No.2 has no power and jurisdiction to review his own orders and conduct second enquiry after conclusion of the disciplinary proceedings.

11. In view of the above findings, the writ petition is allowed by setting aside the impugned proceedings No.A3/2465/2015, dated 23.09.2015 passed by the respondent No.2 and directing the respondent Nos.2 and 3 to continue the petitioner as Fair Price Shop dealer of Fair Price Shop No.02, Tadi Hipperga Village, Madnoor

Mandal, Nizamabad District by renewing her authorization. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE K.SARATH

Date: 08.07.2024

Note: LR Copy to be marked

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