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Andhra Pradesh High Court

Case No: Writ Petition No. 21579 of 2013

Smt. M. Yasodamma	APPELLANT
Vs	
The Government of A.P., Consumer Affairs (Civil Supplies) Department and 5 Others	RESPONDENT

Date of Decision: Dec. 10, 2013

Citation: (2014) 2 ALD 390 : (2014) 1 ALT 307

Hon'ble Judges: A. Rajasheker Reddy, J

Bench: Single Bench

Advocate: B. Sudhakar Reddy and Neeraja Reddy, for the Appellant;

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

A. Rajasheker Reddy, J.

This writ petition is filed for declaring the orders of the 1st respondent passed in Government Memo No. 813/CS-I. 1/2013, dated 04-04-2013 whereby and whereunder the revision petition was allowed and granted stay of operation of the orders passed by the District Collector, Chittoor till disposal of the case, as illegal, arbitrary and without jurisdiction and contrary to the provisions of the Essential Commodities Act and the A.P. State Public Distribution (Control) Order, 2008 and for setting aside the same and for a consequential direction to the respondents not to interfere with the functioning of the fair price shop by the petitioner till her authorization is subsisting. The case of the petitioner is that she was issued fair price shop authorisation under the provisions of A.P. Public Distribution System (Control) Order 2001 for Shop No. 58A, Yerrapalli, Ramasamudram Mandal in 2003 and since then she is supplying of stocks to the public without any complaint. An inspection was conducted in the shop of the petitioner on 11-08-2010 and due to some variations, her authorisation was suspended by issuing suspension-cum-show cause notice vide proceedings No. R.O.C. 53/6094A/2010, dated 21-08-2010. It is stated

that through the same proceedings, the 4th respondent framed charges and directed the petitioner to submit her explanation for the charges pursuance to which the petitioner submitted her explanation, but the 4th respondent-Revenue Divisional Officer, Madanapalle without considering the said explanation, cancelled the authorisation vide proceedings in D. Dis. No. A3/6094A/2010, dated 16-04-2011 against which, the petitioner filed an appeal before the 3rd respondent-Joint Collector, Chittoor, who is Appellate Authority as contemplated under clause 20(2)(i) of the Control Order, 2008 and the same was allowed by order dated 31-07-2012. Thereafter, the said orders were implemented and the petitioner was reinstated as a fair price shop dealer as per the proceedings of the 3rd respondent-Joint Collector and that on payment of the amount towards release of the stocks, stocks were released in favour of the petitioner and she has been distributing the stocks from 01-10-2012 onwards. Meanwhile, the 6th respondent filed revision before the 2nd respondent-District Collector, Chittoor against the orders dated 31-07-2012 wherein the 2nd respondent stayed the operation of the order dated 31-07-2012 passed by the 3rd respondent-Joint Collector and ultimately dismissed the revision filed by the 6th respondent vide proceedings dated 02-03-2013. Challenging the said orders, the 6th respondent filed revision before the 1st respondent under Clause 21(ii) of the Control Order, 2001 wherein the 1st respondent granted stay of operation of the order dated 02-03-2013 passed by the 2nd respondent-District Collector, Chittoor, through impugned memo dated 04-04-2013. Assailing the said Government memo, the present writ petition has been filed.

2. Learned counsel for the petitioner submits that the A.P. State Public Distribution System (Control) Order, 2001 was repealed by clause 25 of the Control Order 2008, as such, the revision under clause 21 of the Control Order, 2001 is incompetent and not maintainable. He also contends that before passing the impugned order, no notice was issued to the petitioner as contemplated under Clause 21 of the Control Order. He also contends that that the 6th respondent is not a card holder and has no locus standi to challenge the order passed by the 2nd respondent. He further contends that no second revision is maintainable inasmuch as the 2nd respondent has already entertained the revision and dismissed the same and that the 6th respondent simply stating that he is representing the cardholders went on harassing the petitioner and also the 1st respondent should not have entertained the revision at the instance of the 6th respondent. The 6th respondent having grudge against the petitioner went on harassing the petitioner after filing petition one after the other at whose instance the 1st respondent should not have passed orders. In support of his contentions, he relied on M. Vanaja Vs. B. Balaseshanna and Others,

3. Learned Assistant Government Pleader for Civil Supplies submits that Clause 21 of the Control Order 2008 is amended vide G.O.Ms. No. 11, Consumer Affairs, Food and Civil Supplies (CS. I) Department, dated 25-01-2012, according to which, sub-clauses (v) and (vi) are added after sub-clause (iv) of Clause 21 of the Control Order, 2008

and that as per such sub-clause (v) of Clause 21 of the Control Order, 2008, the second revision is maintainable before the Government.

4. Learned counsel for the 6th respondent submits that he is a cardholder and is an aggrieved person by the order passed by the 2nd respondent and as such, he preferred revision before the Government. He further submits that in the earlier writ petition filed by the petitioner, the 6th respondent was shown as party to the writ petition, as such, he cannot contend that the 6th respondent has no locus standi. He also contends that since serious irregularities committed by the petitioner, the 6th respondent being cardholder has every right to challenge the order passed by the authorities. He further submits that for passing interim order, no notice is necessary and that the Control Order provides issuance of notice for final disposal of revision. He further contended that sub-clause (vi) of Clause 21 provides that pending disposal of the revision petition, the Government may direct that the order under revision shall not have effect until the same is disposed of. He also contends that though the Control Order 2001 is repealed by Clause 25 of Control Order 2008, that does not make the revision petition ineffective and mere quoting of wrong provision does not defeat the right of the 6th respondent.

6. As far as locus standi is concerned, the said issue need not be decided herein because in the earlier occasion, when the 6th respondent filed revision before the 2nd respondent, the same was entertained by the 2nd respondent wherein the 2nd respondent passed interim order, which was questioned by the writ petitioner in W.P. No. 31231 of 2012. The said writ petition was ultimately was disposed of on 15-10-2012 directing the 2nd respondent to dispose of the revision itself. Since the writ petitioner has not assailed the said order in the writ petition, now the writ petitioner cannot contend that the 6th respondent has no locus standi having agreed with the order passed in the writ petition, more so, the 6th respondent filed a copy of the ration card showing that he is a card holder and a consumer of the writ petitioner being supplied stocks by the petitioner, and thus, the contention that the 6th respondent has no locus standi is totally unsustainable.

7. In this case, admittedly, the revision was filed under Clause 21(ii) of the Control Order, 2001, which is repealed by Clause 25 of the Control Order, 2008, but, sub-clause (v) of Clause 21 of the Control Order, 2008, as amended by G.O.Ms. No. 11, dated 25-01-2012, provides for a revision petition against the order passed by the 2nd respondent and clause 21 also provides issuance of notice only in case of final orders to be passed in the revision. Further, sub-clause (vi) of Clause 21 of the Control Order, 2008 also provides the power of granting interim relief pending disposal of the revision petition. In the present case, the impugned memo shows that the revision petition filed by the 6th respondent is allowed and the orders passed by the 2nd respondent is stayed till disposal of the case and such order is an interim measure, in which no notice is required to be issued and the same can be issued only in case of passing final orders as per clause 21 of the Control Order,

2008. No doubt, the revision petition was filed under the repealed Control Order, 2001, but the Control Order, 2008 provides second revision before the Government, as such, it cannot be said that the revision is ineffective because of quoting wrong provision of law. Therefore, I have no hesitation to hold that the revision is maintainable before the 1st respondent against the order passed by the 2nd respondent. In the present case, the grievance of the petitioner is that because of the stay order passed by the 1st respondent, the petitioner is unable to supply the commodities. The 1st respondent by the impugned memo only stayed the order passed by the 2nd respondent by which the revision petition filed by the 6th respondent was dismissed. Even if the order passed by the 2nd respondent is stayed by the 1st respondent through the impugned memo, it does not prohibit supply of stocks to the petitioner so long as the authorisation of the petitioner is subsisting. It does not disentitle the petitioner for receiving essential commodities and supplying the same to the card holders as she succeeded in the revision before the District Collector. In such scenario, the respondents 4 and 5 can be directed to supply the stocks to the petitioner, having due regard to the fact that the appeal filed by the petitioner is allowed restoring her authorisation and also the fact that the revision petition filed by the 6th respondent is dismissed by the 2nd respondent.

Therefore, in the facts and circumstances of the case, the 1st respondent is directed to dispose of the revision petition filed by the 6th respondent. Till disposal of the said revision, the respondents 4 and 5 are directed to supply the stocks to the petitioner so long as the authorization of the petitioner is valid and subsisting. Accordingly, the writ petition is disposed of. No costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending shall stand closed.