

B. Nethaji Vs State of Andhra Pradesh

Court: Andhra Pradesh High Court

Date of Decision: Aug. 5, 2016

Acts Referred: Constitution of India, 1950 - Article 226

Citation: (2016) 6 ALT 604 : (2016) 6 AndhLD 586

Hon'ble Judges: Sri T. Sunil Chowdary, J.

Bench: Single Bench

Advocate: G.P. for Civil Supplies (AP), for the Respondent No. 1; Mr. Kothapalli Ram Mohan Chowdary, Advocate, for the Petitioner; G.P. for Revenue (AP), for the Respondent Nos. 2 and 3

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

Sri T. Sunil Chowdary, J. - This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the

orders passed by the third respondent in Roc.B/3083/2015, dated 02.01.2016, cancelling the petitioner's fair price shop authorization, without

conducting any enquiry and without giving opportunity of personal hearing, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies (A.P.)

3. A perusal of the record reveals that the petitioner was appointed as Fair Price Shop Dealer in respect of Shop No. 16 of Santhapet, Chittoor

District, by the third respondent vide proceedings L.Dis.No.26/chittoor/2010, dated 28.05.2010. It is the case of the petitioner that he has been

supplying the essential commodities to the card holders without any complaint whatsoever. While so, the fourth respondent inspected Fair Price

Shop No. 16 of the petitioner and found variation.

4. It is the case of the respondents that the card holders caught hold the petitioner while transporting 350 kgs. of PDS rice. The third respondent

issued proceedings in Roc.B/3083/2015, dated 23.03.2015 suspending the authorisation of the petitioner. On 12.08.2015 the third respondent

got issued a show-cause notice calling for the explanation of the petitioner. Being not satisfied with the explanation submitted by the petitioner, the

third respondent issued proceedings in Roc.B/3083/2015, dated 02.01.2016 while cancelling the authorisation of the petitioner for contravening

the provisions of A.P.Public Distribution System (Control) Order, 2008.

5. The predominant contention of the learned counsel for the petitioner is that the third respondent passed the orders on 02.01.2016 without giving

any opportunity to the petitioner to put forth his stand.

6. The learned Assistant Government Pleader, in all fairness, submitted that no opportunity was given to the petitioner before passing of the

impugned order dated 02.01.2016.

7. At this juncture, the learned counsel for the petitioner has drawn my attention to the decision in N. Bhaskaramma v. State of Andhra

Pradesh, 2016 (3) ALD 566. For better appreciation of the rival contentions, it is not out of place to extract paragraph Nos. 7 and 8 of the said

order, which is as follows:

7. So far as the judgment of the apex Court in S.N. Mukherjee v. Union of India (AIR 1990 SC 1984) is concerned, the same has no

application to the facts of the present case; as in the said case, the contention is that no reasons are contained in the impugned order, whereas the

contention of the petitioner in the present case is that no meaningful opportunity of hearing was given to her, thus violating the principles of natural

justice. The principal ground urged by the learned counsel for the petitioner is with regard to violation of the principles of natural justice, as the

petitioner was informed at the last minute as to the change of venue and thereby she was deprived of the opportunity of hearing. In the above

mentioned circumstances, the impugned order is liable to be set aside.

8. Accordingly, the writ petition is allowed and the order dated 20.1.2016 passed by the 2nd respondent is set aside. The 2nd respondent is

directed to fix a date of hearing, communicate the same to the petitioner well in advance, and pass appropriate orders at the earliest, after giving an

opportunity of hearing. There shall be no order as to costs.

8. The facts of the case on hand are almost identical to the facts of the case cited supra.

9. Accordingly, the Writ Petition is allowed and the order dated 02.01.2016 passed by the third respondent in Roc.No. B/3083/2015 is set aside.

The third respondent is directed to fix a date of hearing, communicate the same to the petitioner well in advance, and pass appropriate orders

afresh in accordance with law, as expeditiously as possible, preferably within a period of one (1) month from the date of receipt of a copy of this

order, after giving an opportunity of hearing. If the third respondent fails to pass orders within one month, as stipulated above, he is directed to

restore the authorisation of the petitioner in respect of Fair Price Shop No. 16 of Santhapet, Chittoor District. There shall be no order as to costs.

10. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.