

R. Sandhya Reddy Vs. the Sub-collector and Others

R. Sandhya Reddy Vs. the Sub-collector and Others

SooperKanoon Citation : sooperkanoon.com/950314

Court : Andhra Pradesh

Decided On : Oct-09-2012

Judge : C.V. Nagarjuna Reddy

Appeal No. : Writ Petition No.31474 of 2012

Appellant : R. Sandhya Reddy

Respondent : The Sub-collector and Others

Judgement :

Utter lack of comprehension on the part of respondent No.1 has lead to passing of Order, dated 26-09-2012, in Proceeding No.G//321/2007, which is impugned in this Writ Petition.

The petitioner is a temporary fair price shop dealer of shop No.19, Parsi Village, Govindaraopet Mandal, Warangal District. Respondent No.1 has issued proceeding, dated 06-09-2012, cancelling the petitioner's temporary authorisation. Feeling aggrieved by the said Order, the petitioner filed WP.No.29287 of 2012. This Court, while allowing the said Writ Petition on the ground that the order of cancellation was not preceded by any notice, made the following observations:

"A reading of the impugned order does not show that any enquiry was held before cancelling the petitioner's temporary authorization. Respondent No.1 has merely relied upon a purported report dated 27.08.2008 submitted under the Essential Commodities Act, 1955. Under Clause 5(5) of the Andhra Pradesh State Public

Distribution System (Control) Order, 2008 before cancelling an authorization, it is incumbent upon the appointing authority to issue a notice and hold an enquiry. As this procedure does not appear to have been followed as evident from the impugned order, the same cannot be sustained."

This Court has, however, left respondent No.3 free to initiate fresh proceedings in accordance with law. After the disposal of the said Writ Petition, respondent No.1 has issued the impugned proceeding, a perusal of which would show that the same is styled as 'Notice'. However, respondent No.1 has straight away cancelled the petitioner's authorisation once again calling for explanation from the petitioner. This action of respondent No.1 betrays complete lack of knowledge on his part regarding distinction between a notice and an order. He failed to see that while a notice is issued with a view to give an opportunity to the party likely to be affected by an adverse order proposed to be passed, an order is passed after considering the objections, if any, received from such person to the notice so given. The only distinction between Orders, dated 06-09-2012, and 26-09-2012 passed by respondent No.1 is that the former was termed as 'Order' and the latter as 'Notice'. Barring the same, the contents of both the proceedings are almost same. Such approach on the part of respondent No.1 is not expected from him and especially when this Court has corrected his action once in WP.No.29287 of 2012. As respondent No.1 has committed a blatant error in once again terminating the dealership of the petitioner without an opportunity of being heard, the impugned order cannot be sustained in law and the same is set aside.

The Writ Petition is, accordingly, allowed.

As a sequel, WPMP.Nos.40145 and 40146 of 2012, filed by the petitioner for interim relief, are disposed of as infructuous.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com