



IN THE HIGH COURT OF ANDHRA PRADESH

WRIT PETITION No.19905 OF 2019

% Dated 19.12.2019

#

Smt. P. Mohanamba
w/o K. Vijaya Kumar
Occ: F.P.Shop Dealer of
Shop No.1049046, Thimmireddipalle Village
Gangadhara Nellore Mandal
Chittoor District

....Petitioner

Vs.

\$
The State of Andhra Pradesh
Rep. by its Principal Secretary
Civil Supplies Department
Secretariat, Velagapudi and 2 others

.....Respondent

JUDGMENT PRONOUNCED ON: 19.12.2019

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

1. Whether Reporters of Local newspapers may be allowed to see the Judgments?
2. Whether the copies of judgment may be marked to Law Reporters/Journals
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?



MSM,J

W.P.No.19905 of 2019:APHC:26975

IN THE HIGH COURT OF ANDHRA PRADESH**WRIT PETITION No.19905 OF 2019**% Dated 19.12.2019

#

Smt. P. Mohanamba
w/o K. Vijaya Kumar
Occ: F.P.Shop Dealer of
Shop No.1049046, Thimmireddipalle Village
Gangadhara Nellore Mandal
Chittoor District

....Petitioner

Vs.

\$
The State of Andhra Pradesh
Rep. by its Principal Secretary
Civil Supplies Department
Secretariat, Velagapudi and 2 others

.....Respondent

! Counsel for the petitioner : Sri M.M.M. Srinivasa Rao

^ Counsel for the respondent :
Learned Government Pleader for Civil Supplies

< GIST:

> HEAD NOTE:

? Cases referred

1. 2016 (3) CL(SC) 89
2. WP NO.13995 OF 2013 DATED 26.03.2013
3. 1998 (1) AWC 27
4. 1994 (1) UPLBEC 189
5. (2010) 4 SCC 785
6. AIR 1976 SC 1785
7. (1797) 2 SCC 368
8. (1987) 2 SCC 222
9. 1995 (SUPPL) 2 SCC 83
- 10.(1998) 2 SCC 242

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY****WRIT PETITION No.19905 of 2019****ORDER:**

This writ petition is filed under Article 226 of the Constitution of India to issue Writ of Mandamus, declaring the order issued by the second respondent (C1)/802/2019 dated 02.12.2019 cancelling the authorization of the petitioner's Fair Price Shop No.1049046 situated at Pedakantipalle Village, G.D.Nellore Mnadal, Chittoor District, without assigning any valid reasons and without following the procedure as contemplated under Andhra Pradesh State Targeted Public Distribution System (Control) Order, 2008 (for short 'Control Order') and consequently set aside the same.

The petitioner is a permanent Fair Price Shop Dealer for Shop No.1049046 situated at Pedakantipalle Village, G.D.Nellore Mandal, Chittoor District, obtained authorization under Clause 5 of the Control Order, 2008 which is valid upto 31.03.2021. It is further submitted that, in the meanwhile for convenience to the cardholders, the shop was shifted to Thimmireddipalle Village as per proceedings dated 04.03.2016 issued by the Revenue Divisional Officer, Chittoor, appointing authority as per Control Order, 2008.

Earlier, this petitioner filed W.P.No.14312 of 2019 to direct the respondents to supply stock to the petitioner, as her authorization is still subsisting and the said writ petition was disposed of on 23.09.2019 directing the authorities to supply essential commodities to this petitioner.



While so, on 29.10.2019, the second respondent/Joint Collector issued show cause notice by framing vague charges alleging that this petitioner is not adhering to the timings, selling other commodities, abusing the cardholders etc. Pursuant to the show cause notice, the petitioner submitted her reply on 06.11.2019 denying various charges framed against her in the show cause notice. But the second respondent/Joint Collector passed a cryptic order on 02.12.2019 cancelling the authorization of this petitioner, which is impugned in this writ petition.

It is contended that the order passed by the Joint Collector is at the instance of political leaders and the order is cryptic and without assigning any reason and thereby, it is vitiated by irregularities and consequently, requested to set-aside the same. However, in support of his contention, learned counsel for the petitioner contended that the cryptic impugned order is passed at the behest of the political leaders and placed on record a letter addressed by Sri K. Narayana Swamy, Hon'ble Deputy C.M, Minister for Excise & Commercial Taxes, Government of Andhra Pradesh, Velagapudi, Amaravathi to the Joint Collector, Chittoor, requesting to appoint permanent dealers and change the fair price shop to the convenient place in the village. For better appreciation of the facts, the undated letter addressed by the Hon'ble Deputy C.M to the Joint Collector, Chittoor, filed as additional material paper in I.A.No.2 of 2019 in this writ petition is taken on record and the same is reproduced in *Toto*:



MSM,J

W.P.No.19905/2019 2019:APHC:26975

5



K. Narayana Swamy
 Hon'ble Deputy CM
 Minister of Excise & Commercial Taxes
 Govt. of Andhra Pradesh
 Velagapudi - Amaravathi



D.No. 1-155, SBI Colony
 PUTTUR, Chittoor District
 Andhra Pradesh
 - Pin- 517583
 Mobiles : 98490 34091
 89856 44091

Date :

To
 The Joint Collector,
 Chittoor,
 Chittoor Dist.

Respected,

Sub: F.P Shops-G D Nellore Mandal-Re allocation of 3 FP Shops -Request-Regarding.

I noticed that the following FP Shop dealers are running temporarily and not issuing items properly to the card holders. The FP Shop locations are also not convenient to the card holders. Hence, requesting to appoint permanent dealers and change the FP Shop to the convenient place in the village.

F.P Shop No	Present Dealer	Location
46	Mohanamba	Peddakanta Palle
47	Nagabhusanamma	Guvvala Kandriga
59	Mohanamba I/C	Nandanoor

SDT
 RI
 - ensure read
 Subject as per
 17/01/19

I am recommending the following names for the above said FP Shops.

F.P Shop No	Proposed Dealer	Location
46	T Rose Mary	Peddakanta Palle
47	B Thulasi	Guvvala Kandriga
59	N Munemma	Nandanoor

Please consider my recommendation and do the needful.

Yours Sincerely,

(Handwritten signature)

(K.NARAYANASWAMY)



Whereas, learned Government Pleader for Civil Supplies contended that, the impugned order is in consonance with the Control Order, 2018 and in view of the serious irregularities committed by this petitioner listed from 1 to 4 in the show cause notice, having satisfied that there is sufficient material to prove the charges framed against this petitioner, recorded satisfactory finding that the charges were proved, thereby the order cannot be set-aside by this Court.

The appointment of this petitioner as Fair Price Shop dealer, issue of show cause notice, submission of reply to the show cause notice, passing order impugned in this writ petition, cancelling the authorization of this petitioner are not in dispute.

The core contention of the learned counsel for the petitioner Sri M.M.M. Srinivas is that the impugned order was passed at the instance of Sri K. Narayana Swamy, Hon'ble Deputy Chief Minister and Minister of Excise & Commercial Taxes, Government of Andhra Pradesh and the same is supported by the letter issued by Sri K. Narayana Swamy, Hon'ble Deputy C.M, Minister of Excise & Commercial Taxes, Government of Andhra Pradesh, and the same was endorsed to C.S.D.T & another and the same was again endorsed to another officer with side initials on the left side of the letter mentioned above. This letter was received by the concerned department on 17.07.2019. Admittedly, no inspection was taken place in the petitioner's fair price shop. But, the Tahsildar, G.D. Nellore submitted his report vide ROC.CSDT/134/2019 dated 11.10.2019 recommending cancellation of authorization of petitioner's fair price shop.



The basis for recommendation of the Tahsildar is the letter received by him from Sri K. Narayana Swamy, Hon'ble Deputy C.M, Minister for Excise & Commercial Taxes, Government of Andhra Pradesh. However, the learned Government Pleader for Civil Supplies honestly made an attempt to convince this Court that Sri K. Narayana Swamy, Hon'ble Deputy C.M, is a good politician and the letter allegedly issued by him was signed by him without knowing the recommendation he made to the civil supplies department, proposing to appoint a particular person at particular location specified in Column No.3 of the second table.

This Court is unconcerned as to whether Sri K. Narayana Swamy, Hon'ble Deputy C.M, is good or bad politician. But, making such recommendation and removing a particular fair price shop dealer on the allegations of irregularities and causing inconvenience not only to dealer but also to cardholders is reprehensible and such practice is deprecated. Sri K. Narayana Swamy, Hon'ble Deputy C.M, being an elected people's representative is not supposed to recommend a particular person for appointment as a fair price shop dealer for a particular shop in a particular village and acceptance of the same by the authorities is a dent to purity of good governance.

When a specific procedure is prescribed under the Control Order vide G.O.Ms.No.4 CAF&CS(CS.I) Departmentt dated 19.02.2011 for cancellation of authorization or dealership or suspension, either during pendency of disciplinary proceedings or at the culmination of disciplinary proceedings, if any, initiated and to appoint fair price shop dealers, more particularly, regarding



appointment of fair price shop dealer, conducting examination/interviews and selection.

When a specific procedure is prescribed, both for termination and for appointment of fair price shop dealers, most conveniently, the Tahsildar, C.S.D.T has faithfully made recommendations to the Joint Collector by proceedings ROC.CSDT/134/2019 dated 11.10.2019 and that the Joint Collector acted on such letter of the Tahsildar, C.S.D.T which is the behest of Deputy Chief Minister allegedly. Whether it is due to ignorance of the procedure or otherwise, issued show cause notice to the petitioner calling for explanation, pointing out four irregularities which are as follows:

1. The F.P. Shop dealer is not adhering the timing prescribed by the Government for distribution of ECs.
2. The F.P. Shop dealer is selling other Commodities like soaps, Tea pockets etc., in the F.P. shop.
3. The F.P. Shop dealer is abusing the cardholders of Pedakantipalle, wherever they approached the dealer for getting ECs from the F.P. Shop.
4. It is a fact that the cardholders of Pedakanti palle village are experiencing very much difficulty in getting ECs i.e. old age people and in rainy season.

The first contention is that, the fair price shop dealer is not adhering the timings prescribed by the Government for distribution of essential commodities. There is absolutely no material and no cardholder was summoned to substantiate this contention. But, still, the Joint Collector acted upon such un-substantiated



allegations made by the Tahsildar, C.S.D.T to curry the favour of Deputy Chief Minister for the reasons best known to him. Therefore, cancellation of fair price shop dealership of this petitioner based on such un-substantiated allegation is illegal *ex-facie*. Moreover, as per Clause 10(a) of the Control Order, 2018, non opening of fair price shop during distribution days i.e. 1st to 15th of every month is a major violation, at the same time, sub-clause 14 of Clause 18 of the Control Order, 2018, also obligates the dealer to keep the shop open on all working days between 8.00 a.m to 12.00 noon. In case, if any dealer has not opened the fair price shop on working day, the appointing authority may impose penalty of Rs.1000/- for one day, Rs.1500/- for two days and Rs.2000/- for three days and suspend the authorization of the fair price shop dealer who have not opened the shop for (4) four and above days. The appointing authority may cancel the authorization of such fair price shop dealer duly following the procedure in vogue, but, no such procedure in vogue is followed. Consequently, the order on the ground is liable to be set-aside.

The second allegation is that, the fair price shop dealer is selling other commodities like soaps, tea packets etc in the fair price shop. Sale of tea packets, soaps, etc is neither sale of essential commodities nor scheduled commodities, but there is a prohibition on sale of scheduled commodities procured otherwise than from civil supplies department or from the government agencies. If, those scheduled commodities are procured from the Government agencies, even sale of scheduled commodities is also not a contravention under any clauses the Control Order, 2018.



Therefore, such sale of tea packets, soaps, etc is not at all violation of the Control Order, 2018. But, for different reasons, without recording any specific finding with reference to the provisions of Control Order, 2018, the Joint Collector passed the order impugned in this writ petition in haphazard manner. Therefore, cancellation of dealership of this petitioner on the ground that dealer is selling other commodities like soaps, tea packets etc in the fair price shop is not supported by any provision in the Control Order and it is a grave illegality committed to abide by the dictate of the Deputy Chief Minister.

The third ground mentioned in the show cause notice for taking disciplinary action against this petitioner is that the fair price shop dealer/petitioner herein is abusing the cardholders of Pedakantipalle Village, whenever they approached the petitioner for collecting essential commodities from fair price shop. None of the cardholders who experienced such abuse were examined and no statements of cardholders was recorded as per the order impugned in this writ petition. In the absence of any evidence in support of such illegality or irregularity, termination of the dealership of this petitioner in the proceedings initiated by the Joint Collector against this petitioner, based on the Tahsildar's report which is the outcome of recommendation made by the Deputy Chief Minister is a serious irregularity.

The fourth and last ground for cancellation of the dealership of this petitioner is that the cardholders of Pedakantipalle Village are experiencing much difficulty in receiving essential commodities by the old aged people and during rainy reason. This is not a ground for taking any action under the provisions of Control



Order, 2018, but based on such un-substantiated allegations, the Joint Collector passed the order somehow to satisfy the Deputy Chief Minister based on the letter addressed by him. Therefore, termination or taking any action on the basis of recommendation made by Deputy Chief Minister, who is a public representative and submitting report by Tahsildar on endorsement of the letter, acting upon such report by the Joint Collector, can be described as bureaucratic atrocity against the fair price shop dealer, depriving his livelihood.

When the petitioner submitted an explanation to the show cause notice, the Joint Collector is under legal obligation to conduct necessary enquiry by himself, as required under Control Order, 2018 and afford an opportunity in the disciplinary enquiry initiated against him and pass appropriate orders. Though the petitioner submitted an explanation to the show cause notice, the Joint Collector without conducting any enquiry and without affording any opportunity to the petitioner, passed the impugned order.

On submission of explanation by the petitioner to the show cause notice, the Joint Collector is supposed to conduct necessary enquiry by himself. Though the petitioner submitted her explanation to the show cause notice, the Joint Collector without conducting any enquiry and without affording any opportunity to this petitioner, passed the impugned order. The way in which the order is passed is sufficient to conclude that the impugned order was passed at the behest of the political leaders which are highly placed in the present Government may be due to unholy patronage or apprehension of transfer. More so, the Joint Collector, being the



officer at the district level is not supposed to pass such an order, as the procedure for termination or appointment of fair price shop dealer is circumscribed by Government Order i.e. for selection by conducting examination, interviews etc. But, for the reasons best known to the Joint Collector, he deviated the procedure and passed the order without even conducting any enquiry and if such order is sustained by this Court, the public may lose faith on the Courts and atleast to keep up faith on the Courts, I find that it is a fit case to set-aside the order passed by the second respondent vide (C1)/802/2019 dated 02.12.2019, to survive the system forever to repose faith of the public on the Courts, since, Justice must not merely be done, but it must also be seen to be done.

It is really unfortunate that the administrative actions are taken in such manner which has resulted in untold sufferings and financial expenditure on the administrative side. Transparency and objectivity reflecting the set norms and rules should be the criteria of administration and executive rather than whimsical labelling of the officers with the tags of any shade. Public interest is not abstract to be found in the dictionaries but must be obvious and visible. Politicising fair price shop dealer appointment and removal would be unproductive and detrimental against the interest of the State. On many occasions, judicial note has been taken against such actions and they have been deprecated and strongly condemned, but it seems that the directions have not been properly understood.



Turning to the facts of the present case, the Joint Collector, conveniently extracted charge and explanation and passed the order, which reads as follows:

“Perused the connected records, report of the complainants and explanation of the respondent it is observed that the F.P. Shop dealer is selling other than Essential Commodities are being supplied under PDS and she is not maintaining the timings as prescribed by the Government and violated the conditions stipulated under APSTPDS (Control) 2018. The Respondent has failed to prove the allegation levelled against her. Hence the Explanation of the F.P. Shop Dealer is not convincing.

In view of the above, I hereby ordered that the Authorization issued in favour of Smt. Mohanamba, F.P. Shop No.1049046, Pedakantipalle Village of G.D. Nellore Mandal is hereby cancelled and the Tahsildar, G.D. Nellore is directed to send alternate proposals for temporary F.P. Shop dealer to avoid inconvenience to the cardholders.”

The way in which the order is passed is sufficient to conclude that the order was passed at the behest of political leaders, who are highly placed in the government. More so, the Joint Collector being the officer at the district level is not supposed to pass such an order in utter deviation of the procedure prescribed under the Control Order, 2018, for termination or appointment of fair price shop dealers. But, for the reasons best known to the Joint Collector, he deviated the entire procedure and passed the order without even conducting any enquiry as prescribed under the Control Order and if, such order is sustained by this Court, the public may lose faith on the Courts, since in a democratic set-up, intrinsic and embedded faith in the adjudicatory system is of seminal and pivotal concern. It is the faith and faith alone that keeps the system alive. It provides oxygen constantly. Fragmentation of faith has the effect-potentiality to bring in a reasoned verdict from a temperate Judge but does not



intend to and, rightly so, to guillotine much of time at the altar of reasons. Thus, it is clear as day that everyone involved in the system of dispensation of justice has to inspire the confidence of the common man in the effectiveness of the judicial system. Sustenance of faith has to be treated as spinal sans sympathy or indulgence. If someone considers the task to be Herculean, the same has to be performed with solemnity, for faith is the 'elan vital' of our system. (vide **Gayatri v. M. Girish**¹).

Keeping in mind the responsibility of the judicial set-up, to upkeep the faith on the Courts and to uphold the judicial process, the order is liable to be set-aside by this Court.

Not only the judiciary alone, but the people's representative, more particularly, the highly placed bureaucrats in a democratic set-up has to maintain the same faith on the system. Interference in general administration of the district by the politicians and recommending the names for appointment as fair price shop dealers in utter violation of the Control Order, 2018 is nothing but a dent on the purity in administration and acceptance of such recommendations by the highly placed officials in the district due to their political patronage or otherwise, may mar the faith in the system itself and contrary to the principles of good governance.

To avoid such interference in the administration, certain reforms were brought in the police department transfer of I.P.S officers. The same was discussed by the Karnataka High Court at

¹ [2016(3) CLJ(SC) 89]



Bangalore in **T. Suneel Kumar, IPS v. State of Karnataka**², when a transfer of I.P.S officer came up for consideration before the Division Bench of Karnataka High Court based on the recommendation of a politician, the High Court observed that interference with the police system extraneous sources, especially the politic encourages the police personnel to believe that career advancement does not at all depend on the merits of their professional performance, but can be secured by currying favour with politicians who count Politicking and hobnobbing with functionaries outside the police system appear very worthwhile in the estimate of an average police officer. Deliberate and sustained cultivation of a few individuals on the political plane takes up all the time of a number of police personnel to the detriment of the performance of their normal professional jobs to the satisfaction of the general public at large. This process sets the system on the downward slope to decay and total ineffectiveness and the increasing scope for mala fide interaction between the politician and the police has also encouraged unscrupulous policemen at different levels to forge a working relationship with the politician for gaining Undue career advantage, besides pecuniary advantage resulting from collusive corruption. The phenomenon of political interference has thus grown to enormous proportion, assiduously fed by vested interests among the police as well as the politicians. The Courts are conscious that any remedial measures, Courts might think of in this context will have to contend with resistance from such vested interests on both sides. Therefore, a committee was constituted by the Ministry of Home Affairs to set-up Police

² WP No.13995 of 2013 dated 26.03.2013



Reforms. The Committee ascribes the growing political interference in the police administration and its work to "recruitment and transfer policies/procedures, failure of political leadership and the failure of police leadership." But, no purpose was served even after formulation of certain guidelines. The Karnataka High Court observed that, apart from demoralizing the police force, it has also the adverse effect of politicizing the personnel and if there is any unwillingness to comply with unlawful or improper suggestions, the persons concerned are harassed, transferred or otherwise humiliated.

Perhaps the same is the problem of the Joint Collector which tempted him to pass such order due to unholy nexus between the Tahsildar, who submitted report and the politician who made recommendation. Such orders contribute to the poor image on the system itself and manifest itself in the misuse and abuse of the power of the bureaucrats due to unholy nexus between the district officials and politicians, disregard of the law by the district administration. People may justifiably consider political interference with police and administrative functionaries as a greater evil than even corruption, political interference appears more pronounced in rural areas than in urban areas. Once the powers in this regard are given to the departmental hierarchy, political interference in policing/administration will be reduced. Therefore, despite making certain observations regarding nexus between the police officials/district administration and politicians, in the absence of such orders offering unholy gain either in career advancement or due to apprehension of transfer, in the event they



did not comply with the recommendations made by the said highly placed politicians, orders are being passed totally in deviation of the procedures.

Similarly, in **Lokesh Kumar, P.C.S v. State of U.P³**, police officer was transferred on account of recommendation made by Sri Isam Singh, M.L.C and the same was challenged before the High Court. The High Court set aside the order observing that, ***“In the letter written by Sri Isam Singh, M.L.C., it has been stated that the petitioner is very close to Sri Mulayam Singh and Sri Azam Khan and in his prior posting at Rampur Sugar Mill he had exploited the Sugar Mill and he should be immediately transferred to some other place, i.e., to a non-sensitive post”***. On this letter, there is an endorsement of recommendation by Sri Isam Singh, M.L.A. Nagal, Saharanpur. On this letter itself, there is a note addressed to the Secretary appointment, signed by the Chief Minister dated 22.6.1997 requiring immediate transfer of the petitioner to some non-sensitive post. There is another letter of the Chief Minister addressed to Hon'ble Minister dated 26.5.1997, in which a copy of the letter of Sri Isam Singh, M.L.C. was enclosed and in which the work of the petitioner and few others have been stated to be bad. It was also stated that they have committed oppression on Dalits and as such they should be immediately transferred from their post. Accordingly, the police officer was transferred and the matter reached the Division Bench of Allahabad High Court, wherein the Division Bench held as follows:

³ 1998 (1) AWC 27



“15. It is really unfortunate that the administrative actions are taken in such manner which has resulted in untold sufferings and financial expenditure on the administrative side. Transparency and objectivity reflecting the set norms and rules should be the criteria of administration and executive rather than whimsical labelling of the officers with the tags of any shade.

16. Public interest is not abstract to be found in the Dictionaries but must be obvious and visible. Politicising services would be unproductive and detrimental against the interest of the country.

17. On many occasions, judicial note has been taken against such actions and they have been deprecated and strongly condemned but it seems that the directions have not been properly understood.”

The Division Bench of Allahabad High Court noted the principle laid down in **Pradeep Kumar Agrawal v. Director, Local Bodies, U.P., IV, Lucknow and others**⁴, where the Court observed that, it would be appropriate to observe here that in a democratic set up like ours, bureaucrats are expected to act and discharge their executive functions impartially and strictly in accordance with the Rules and Regulations. No doubt, as of right no Government servant can claim to be posted either on a particular station or post, therefore, the transfers are to be done only in administrative exigencies and in public interest, but in the above case the letter written by the aforesaid M.L.A addressed to Minister for Urban Development bearing endorsement of the Officers of the State Government, indicated that instant transfer has neither been made in administrative exigency nor in public interest. It is not only a matter of surprise but highly objectionable that bureaucrats are dancing at the tunes of such letters ignoring the well settled norms meant for transfer.

⁴ 1994 (1) UPLBEC 189



Despite these observations made by several Courts, the officers working in the district administration are not putting off their unholy nexus with the bureaucrats in discharging their duties, but, acting as per the dictates of those bureaucrats to favour their supporters, the present case is a fine example of passing such order, apprehending transfer or for unholy benefit of career advancement of the Joint Collector. Therefore, unless such unholy nexus between the district administrative officials and the politicians at different levels is curbed, it is difficult to uphold the rule of law. Therefore, with a hope that the Joint Collector who passed the order atleast may disconnect his unholy nexus with the political bureaucrats and discharge his administrative functions independently, to uphold the rule of law, not yielding to the pressures of such bureaucrats to favour the supporters of the bureaucrats due to their unholy patronage to enhance public faith in the system, the order impugned is liable to be set-aside.

The order impugned in the writ petition is a classic example as to how the orders are being passed by non-application of mind by the officers. The observation in the last sentence of the paragraph extracted above stating that **“the respondent/petitioner herein has failed to prove the allegation levelled against her”**. This itself shows that the impugned order is passed due to non-application of mind, for the reason that, the petitioner herein is not required to prove the allegation levelled against her. At best, she may rebut the allegations made against her by complaints, etc. The initial onus of proof is on the department to prove the allegations and the



principle of reverse burden does not apply to the cases under Essential Commodities Act. Therefore, the order passed by the Joint Collector at the behest of political leader is illegal and the same is liable to be set-aside.

The Joint Collector, except recording such finding that the respondent/petitioner herein failed to prove the allegations made against her, no reason is mentioned, though reason in the order passed by administrative or quasi judicial authorities is the heart and soul of such order. The respondent Nos.2 and 3 are quasi judicial authorities and required to adjudicate the disputes under Essential Commodities Act. Respondent Nos.2 and 3 being the quasi judicial authorities have to pass a reasoned order, strictly adhering to the requirements under Essential Commodities Act. Time and again, the Courts held that though the administrative authorities exercising quasi judicial powers, are bound to record its reasons. In exercise of power of judicial review, the Apex Court in ***Assistant Commissioner, Commercial Tax Department, works contract and Leasing, Kota v. Shukla and brothers***⁵ had an occasion to deal with an unreasoned order and made certain observations. In exercise of power of judicial review, the concept of reasoned orders/actions has been enforced equally by foreign courts as by the courts in India. The administrative authority and tribunals are obliged to give reasons, absence whereof could render the order liable to judicial chastise. Thus, it will not be far from absolute principle of law that the Courts should record reasons for its conclusions to enable the appellate or higher courts to exercise their jurisdiction appropriately and in

⁵ (2010) 4 SCC 785



accordance with law. It is the reasoning alone, that can enable a higher or an appellate court to appreciate the controversy in issue in its correct perspective and to hold whether the reasoning recorded by the Court whose order is impugned, is sustainable in law and whether it has adopted the correct legal approach. To subserve the purpose of justice delivery system, therefore, it is essential that the Courts or Quasi Judicial or Administrative Authorities should record reasons for its conclusions, whether disposing of the case at admission stage or after regular hearing. The Apex Court also referred various judgments in **Siemens Engineering and Manufacturing Co., of India Ltd. v. Union of India and another**⁶, **Gurdial Singh Fijji v. State of Punjab**⁷ and other judgments in **Jawahar Lal Singh v. Naresh Singh and others**⁸, **Chabungbamohal Singh v. Union of India**⁹ and **Hindustan Times Limited v. Union of India**¹⁰, concluded that the absence of reasoning as to the mandatory requirement of provision which conferred jurisdiction on the quasi judicial authority or a Court or administrative authority is mandatory. In the absence of reasons, the Court while exercising power of judicial review under Article 226 of Constitution of India can set aside the order.

In view of law declared by the Courts, the order impugned in this writ petition is illegal, not sustainable on the grounds stated above.

⁶ AIR 1976 SC 1785
⁷ (1977) 2 SCC 368
⁸ (1987) 2 SCC 222
⁹ 1995 (Suppl) 2 SCC 83
¹⁰ (1998) 2 SCC 242



In view of my foregoing discussion, I find that it is a fit case to set-aside the order passed by the second respondent vide (C1)/802/2019 dated 02.12.2019.

Accordingly, the writ petition is allowed, setting aside the order passed by the second respondent vide (C1)/802/2019 dated 02.12.2019 and the respondents are directed to restore the authorization of the petitioner's Fair Price Shop No.1049046 situated at Pedakantipalle Village, G.D.Nellore Mandal, Chittoor District, forthwith.

Consequently, miscellaneous petitions pending in the petitions, if any, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date:19.12.2019

Note: LR copy to be marked

b/o
Sp