

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 386 of 2015

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for the respondents¹ to 4 and learned counsel for the 5th respondent.

2. The petitioner was appointed as a Fair Price Shop Dealer of Shop No.37 (15A) of Tatiparthi Village, Gollaprolu Mandal, East Godavari District, consequent to a vacancy caused by the death of her husband, who was murdered in a political rivalry on 04.08.2010, by proceedings dated 11.08.2010. In December 2014, she paid the amount for release of the stock, but she was surprised to receive a caveat petition dated 14.12.2014 on 24.12.2014 from the 5th respondent. She filed an application under RTI Act with regard to the proceedings that were passed by the 3rd respondent in favour of the 5th respondent and, in those circumstances only, the petitioner received the proceedings of the 3rd respondent dated 03.12.2014 on 31.12.2014. Challenging the same, the present writ petition is filed.

3. The proceedings of the 3rd respondent read as follows:

“Smt. Mogili Sudha W/o Ramireddy, Tatiparthi Village, Gollaprolu Mandal, submitted a representation and requested to grant temporary dealership for the F.P.Shop No.37 of Gollaprolu Mandal.

In the ref.2nd read above, the Tahsildar, Gollaprolu, reported that Smt.Mogili Sudha W/o Ramireddy, Tatiparthi Village, Gollaprolu Mandal was completed degree, present she is an unemployee, she belongs to OC community, her husband is agricultural cooli and no civil and criminal cases are pending against them.

The Tahsildar further submitted that the applicant have the knowledge and financial ability to maintain the F.P. Shop and recommended for temporary dealership for F.P.Shop No.37 of Gollaprolu Mandal.

In view of the report of the Tahsildar, Gollaprolu, Smt. Mogili Sudha W/o Ramireddy, Tatiparthi Village, Gollaprolu Mandal, is hereby appointed as temporary dealer for F.P.Shop No.37 of Gollaprolu Mandal on temporary basis, until further orders. The dealer now appointed is informed that the temporary dealership will be removed without any notice as and when necessary."

A perusal of the above order indicates that though the petitioner was appointed as a temporary dealer, she was sought to be replaced by another temporary dealer, which is not proper.

4. A counter affidavit is filed now stating that there were allegations of irregularities against the petitioner and a case under Section 6-A of the Essential Commodities Act was booked. The counter affidavit also says that based on the reports of the Tahsildar, Gollaprolu, dated 28.11.2014 and 02.12.2014, the impugned order was passed on 03.12.2014. It is clear from the said averment that based on the report of the Tahsildar, Gollaprolu, the impugned order was passed on the next day appointing the 5th respondent in place of the petitioner. The learned Government Pleader submits that the 3rd respondent has got the power. This Court does not appreciate the said contention, as the power was not properly exercised in the circumstances of the case. Though the 5th respondent has been continuing by virtue of the order of the 3rd respondent dated 03.12.2014, since the said order is illegal, this Court is constrained to set aside the same and allow the writ petition. However, this order will not prevent the 3rd respondent from taking necessary action against the petitioner in accordance with law, if there are any allegations against the petitioner.

5. Accordingly, the Writ Petition is allowed. Miscellaneous petitions, if any, pending in the writ petition shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

16th June, 2015

cbs

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
-
-
-

— — — — —

-
-
-

WRIT PETITION No. 386 of 2015

16th June, 2015

cbs