

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.2086 of 2012

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DATE: 04.06.2015

Between:

S.Bhavani Sankara Rao

...Petitioner

and

The Joint Collector (Civil Supplies) and others

...Respondents

**COUNSEL FOR THE PETITIONER : SRI CH.VENKATA NARAYANA
FOR SRI B.DEVANAND**

COUNSEL FOR THE RESPONDENTS : GP FOR CIVIL SUPPLIES (AP)

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ORDER:

This Writ Petition is filed for a mandamus to set aside proceedings in AC.No.6/11 CSR7, dated 10.09.2011 of respondent No.1 along with all other preceding proceedings.

The petitioner was appointed as fair price shop dealer in respect of shop No.26 of Dondaparathi Village under Physically Handicapped (PH) quota by respondent No.2. On a complaint received by respondent No.2 regarding PH status of the petitioner, the former has referred the matter to the Assistant Director of Disabled Welfare to examine the relevant certificate in the light of the Rules framed under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act'). On verification, the Assistant Director of Disabled Welfare has reported that as per the Act, a person having disability of 40% and above is treated as disabled person for the benefit under the disabled quota and that the petitioner is having only 30% disability and as such he does not fall within the disability quota. On receipt of the clarification from the Assistant Director, respondent No.2 has suspended the petitioner's fair price shop authorization vide proceedings,

dated 19.06.2010. Aggrieved by the said order, the petitioner has initially filed Writ Petition No.14848 of 2010 and secured an interim order of suspension to last till the expiry of validity of his fair price shop authorization. As the petitioner's fair price shop authorization expired on 31.03.2011, he has applied for its renewal and the same was rejected by respondent No.2 as the petitioner is not entitled for the benefit under the disabled quota. However, interestingly, respondent No.2 has placed the petitioner's non-existent fair price shop authorization under suspension vide his order, dated 25.07.2011. Aggrieved by the said order, the petitioner has filed an appeal before respondent No.1. By the impugned proceedings, dated 10.09.2011, respondent No.1 has dismissed the said appeal. In his order, respondent No.1 while narrating the entire facts leading to the order passed by respondent No.2 has observed that as the order challenged before him was interim in nature pending passing of final order in the purported enquiry initiated against the petitioner, the said order was not liable for interference. Questioning this order, the petitioner filed this writ petition.

Though the Writ Petition is pending for the last more than 3½ years, no interim order has been passed.

At the hearing, the learned Government Pleader for Civil Supplies has reported that in the absence of an interim order, the petitioner is not functioning as fair price shop dealer.

As this Writ Petition arises out of an order passed in an appeal and pending purported enquiry into the eligibility or otherwise of the petitioner for being appointed as a fair price shop dealer under the disabled quota and the petitioner is not functioning as the fair price shop dealer for more than 3½ years, it is not appropriate to interfere with the order passed by respondent No.2 confirming the order of respondent No.2. However, respondent No.2 is directed to hold a detailed enquiry into the nature of the petitioner's disability wherein an opportunity of being heard shall be given to the petitioner, and pass a detailed order. In the event respondent No.2 finds that the petitioner satisfies the definition of 'disabled person' under the Act, he shall restore the petitioner's fair price shop authorization. In the converse

situation, he shall pass a detailed order giving reasons in support of his conclusion and communicate the same to the petitioner. He shall complete this exercise within a period of three months from the date of receipt of this order. If the petitioner feels aggrieved by the order that may be passed by respondent No.2, he shall approach appropriate forum in accordance with law.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of writ petition, WPMP.No.2598 of 2012 filed by the petitioner for interim relief is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

4th JUNE, 2015.

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