

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

WRIT PETITION No.20497 of 2015

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DATE: 15.07.2015

Between:

Smt. P.Gowthami

...Petitioner

and

The State of Andhra Pradesh and others

...Respondents

COUNSEL FOR THE PETITIONER : SRI K.SITARAM

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

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

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ORDER:

This Writ Petition is filed for a mandamus to declare the action of respondent No.2 in not passing order on the stay application filed by the petitioner pending appeal, as illegal and arbitrary.

I have heard Sri K.Sitaram, learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies (Andhra Pradesh).

The petitioner has been working as fair price shop dealer from the year 2010. Departmental Proceedings were initiated against her wherein the following three charges were framed.

1. That the dealer is not residing in Peddakadubur Village and reported that she is residing in Adoni along with her husband.
2. That Sri N.Mahesh Wara Reddy Husband of the dealer is working Electrical Department.
3. That the dealer is not running the F.P. Shop herself but the same is being run by a Benami person by Name Kori. Narasimhulu.

The petitioner has submitted her explanation along with documentary evidence. In respect of charge No.1, the petitioner has filed copies of Aadhaar and Voter I.D. cards in proof of her residing in Adoni. As regards charge No.3, the petitioner has explained that K.Narasimhulu is only working as assistant in her shop. With regard to charge No.2, the petitioner is stated to have explained that her husband is working in Electrical Department on contract basis as Lineman. Respondent No.3 vide his order, dated 12.05.2015 has cancelled the petitioner's fair price shop authorization only on charge No.2 without rendering any specific findings on charge Nos.1 and 3.

In ground No.4 of grounds of appeal filed by her before

respondent No.2, the petitioner has specifically pleaded that at the time of her appointment as fair price shop dealer, her husband was jobless and that later, he was appointed on contract basis.

Respondent No.3 has not adverted to the said plea of the petitioner in his order. In my opinion, the tenor of order of respondent No.3 suggests that he has cancelled the petitioner's fair price shop authorization with a pre-conceived mind without proper application of mind. If by the time the petitioner was appointed as fair price shop dealer, her husband was unemployed, merely by the subsequent employment of her husband, she cannot be disqualified. Being the appellate authority, respondent No.2 cannot sit tight over the stay applications. Non-passing of orders on the stay application more often causes serious prejudice to the interests of the appellants. This Court is *prima facie* satisfied that the reason for which the petitioner's fair price shop authorization was cancelled did not warrant such cancellation. As respondent No.2 being the appellate authority, has abdicated his function by not passing an order on the stay application, I feel it just and necessary to pass an interim order pending appeal before respondent No.2. Accordingly, order bearing Rc.M.1093/2015, dated 12.05.2015 of respondent No.3 is suspended pending appeal before respondent No.2.

The Writ Petition is accordingly allowed to the extent indicated above.

As a sequel to disposal of writ petition, WPMP.No.26404 of 2015 filed by the petitioner for interim relief is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

15th JULY, 2015.

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