

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No.5252 OF 2008

ORDER:

The proceedings dated 01.03.2008 issued by the 1st respondent cancelling the allotment of Shop No.12 in Shopping Complex, Dilshuknagar, Hyderabad, to the petitioner under the Poverty Elevation Scheme to the Scheduled Castes people, is challenged before this Court.

It is the case of the petitioner that in the year 1988 pursuant to the notification issued by the first respondent-Society calling for allotment of shops in Shopping Complex, Dilshuknagar, Hyderabad from the unemployed eligible Scheduled Castes candidates under the self employment scheme, petitioner submitted an application and was allotted the Shop No.12 at the above said shopping complex. Since then the petitioner has been running the shop and as on 2007 he has been paying the rent of Rs.1,500/- per month. Like wise, one Smt Geeta was also allotted a Shop No.14 in the above said shopping complex by the first respondent-society on 20.09.1990. Thereafter, Smt Geeta was allotted Shop No.5 in lieu of Shop No.14. Subsequently, petitioner was married to Smt Geeta on 13.12.1990. Since then, the petitioner is running Shop No.12 by carrying business. Smt Geeta is running S.T.D booth in Shop No.5. While things stood thus, Smt Geeta was issued a show-cause notice on 29.09.2007 alleging that she suppressed her marriage with the petitioner and the allotment made in her favour is liable to be cancelled. Then Smt Geeta submitted her explanation on 09.10.2007 stating that the allotment was made to her in September, 1990 and by which time she was not married and the allotment made to her was on account of her eligibility. She also further submitted in her explanation that her marriage took place on 13.12.1990 with the petitioner. She also raised an objection that there is no stipulation in the Rules that a person who is married or who is likely to get married are not eligible for allotment. While submitting the explanation she prayed for dropping up for further proceedings. By making a reference to show-cause notice and explanation submitted by Smt Geeta, the impugned order dated 01.03.2008 cancelling the allotment of shop infavour of the petitioner is made.

Heard Sri Karra Srinivas, learned counsel for the petitioner and Sri M. Sudhir,

Standing Counsel for the Schedule Castes Corporation.

In the counter-affidavit filed by the Executive Director of the 1st respondent-society who is also arrayed as the 2nd respondent, the reasons for cancellation were stated that a show-cause notice was issued to Smt Geeta and particularly she was asked to submit 1) Ration Card, 2) Voter's Identity Card, 3) House related papers, 4) B-Pharmacy certificate, 5) Drug license, 6) Latest Caste Certificate, 7) Trade license from Greater Hyderabad Municipal Corporation. The verification of the said documents reveal that Smt Geeta was issued a Ration card on 18.07.2005 wherein her husband's name was shown as Bollepally Damodar Rao, House No.17-30, Plot No.201, Manikeswari Towers, Krishnanagar, Ward-14, Gaddiannaram Municipality, Hyderabad. Her voter identity card was issued on 18.06.2006 also reveals her husband's name as Bollepally Damodar Rao with address as 1-1-118/119, Aliance House Road, Sardar Patel Road, Mahankali, Secunderabad.

Further, in the caste certificate submitted by Smt Geeta on 01.09.2007, her father's name was shown as Papaiah Yadla and her name as Geeta Yadla. In the caste certificate her address was shown as Plot No.5, Vikasnagar, Gaddiannaram, Saroornagar Mandal, R.R. District. In other words, she is in the habit of showing different addresses to suit her convenience and in the process, she had mislead the first respondent to get undue advantage for getting allotment of the shop. As the policy of the Corporation is to the effect that only one person in a family unit will be given the benefit and finding that the petitioner as well as his wife both have obtained allotment, a show-cause notice was issued and following the due process, the allotment made in favour of the petitioner, was cancelled.

Learned Standing Counsel for the Schedule Castes Corporation also placed reliance on the letter addressed by the VC & Managing Director (FAC) of the Corporation to the District Collector/Chairman, DSCSCS Limited, Hyderabad clarifying that the benefits of scheme would be extended only to one of either wife or husband in a family and not to both, as otherwise the other eligible family member will be deprived of availing the benefits of the scheme.

A perusal of the stand taken by the respondents-authorities does not answer the specific query raised by the petitioner that in the Rules of allotment, there is no stipulation barring husband and wife to apply and to get allotment of the shop. Further, in the facts of the present case, the allotment of shops in favour of both the

petitioner and Smt Geeta to whom the petitioner married took place prior to their marriage. It is not the case of the respondents-authorities that there was any suppression on the part of the petitioner. Voter identification card, ration card are all the documents pertaining to 2005-06 and not in relation to the crucial period in the year 1990 when the petitioner and Smt Geeta came to avail the benefits of the scheme. In other words, the documents of the year 2005 have no relation whatsoever with the eligibility of the petitioner in 1990. The alleged cancellation of the shop allotted to the petitioner without giving notice is another aspect which would also make the impugned order unsustainable. Admittedly, the show-cause notice was issued only to Smt Geeta and not to the petitioner. In other words, the impugned order came to be passed without following due process of law. For the more than one reason, the cancellation order passed by the respondents cannot be sustained and accordingly the same is quashed.

Accordingly, the writ petition is allowed quashing the proceedings dated 01.03.2008, issued by the 1st respondent cancelling the allotment of shop No.12 of the petitioner. No order as to costs.

Miscellaneous Petitions pending, if any, in this writ petition shall stand dismissed.

CHALLA KODANDA RAM,J

Date:22.12.2015.

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THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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