

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

W.P.No.31160 of 2015

ORDER:

Heard Sri I.Gopala Reddy, learned counsel for the petitioner and the learned Government Pleader for Civil Supplies, appearing for the respondents.

2. This Writ Petition is filed under Article 227 of the Constitution of India challenging the order dt.25-08-2015 of the Joint Collector (FAC), Prakasam District, Ongole vide proceedings Rc.CS2/278/2015 cancelling the dealership authorization of the petitioner.

3. According to the petitioner, as she was suffering from low back pain from 01-11-2014 to 31-07-2015 and was advised to take bed rest, she could not challenge the said proceedings within 30 day period permitted by clause 20 of the AP State PDS Control Order, 2008 to file appeal before the Joint Collector. A Medical Certificate issued by one Dr.Brahmaiah certifying to the illness of the petitioner is also filed before the Joint Collector.

4. By order dt.25-08-2015, the Joint Collector refused to condone delay on the grounds that the reasons are not convincing and that the appeal ought to have been filed within 30 days from the date of receipt of a copy of the orders of the Sub Collector.

5. Learned counsel for the petitioner contends that as per the judgment of a Division Bench of this Court in **Santhammatalli Mahilasakthi Sangham (DWCRA), Vettapalem, East Godavari District Vs. Govt. of A.P., rep. by its District Collector, Kakinada and others**^[1], by virtue of the provisions of Section 29 (2) of the Limitation Act, 1963, provisions of the Limitation Act, 1963 would apply even to proceedings initiated under the AP State Public Distribution System Control Order 2001 and the view of the Joint Collector that because the appeal is filed beyond 30 days, it cannot be entertained, is not sustainable. Learned counsel for the petitioner also contended that the view of the Joint Collector that the reasons given for refusing to condone delay are not correct.

6. Although the learned Government Pleader sought to rely on the judgment of the learned Single Judge of this Court in **Akula Veeraiah Vs. Commissioner of Civil Supplies, A.P., Hyderabad and others**^[2] in support of his plea that provisions of Limitation Act do not apply to proceedings under the above order, having regard to the Division Bench judgment referred to above, I am of the opinion that the said decision of the learned Single Judge, is not good law. The petitioner has contended that she is suffering from back pain from

01-11-2014 to 31-07-2015 and this is supported by Medical Certificate issued by Dr. Brahmaiah employed in the primary Health Centre, Ulavapadu, Prakasam District.

7. Therefore, it cannot be said that sufficient cause was not shown by the petitioner for condonation of the period of delay in filing the appeal under the above Control Order.

8. Therefore, the impugned order is set aside. The application for condonation of delay of 290 days in filing the appeal challenging the orders of the Sub Collector, Kandukur dt.25-10-2014 is allowed. The Collector, Ongole/2nd respondent is directed to number the appeal filed by the petitioner, issue notice to the petitioner and decide the same in accordance with law, preferably within a period of eight weeks from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition is allowed. No costs.

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 02-11-2015

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[\[1\]](#) 2014 (6) ALT 785 (D.B.)

[\[2\]](#) 2011 (4) ALD 294