

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

WRIT PETITION No.31700 of 2011

-
03.09.2015

Between:

M.Mohammed Rafiq

.. Petitioner

and

The Director of Civil Supplies, Hyderabad and others

.. Respondents

Counsel for the petitioner: Mr.S.V.Ramana
for Mr.O.Manoher Reddy

Counsel for respondent Nos.1 to 4: Assistant
Government

Pleader for Civil Supplies (AP)

Counsel for respondent No.5: None appeared

-
The Court made the following:

-

-

ORDER:

This writ petition is filed for a *mandamus* to set aside order in DCS Progs.No.N1/3824/2011, dated 02.11.2011, of respondent No.1 to the extent of giving option to respondent No.5 to choose either of the two shops viz., shop No.4 and shop No.5.

The petitioner is the fair price shop dealer of shop No.5 and respondent No.5 is the fair price shop dealer of shop No.4. Though both the shops were located in the same village, by order, dated 03.08.2011, of respondent No.2, shop No.4 was shifted and relocated at another Village after deleting one hamlet from that shop and adding the same to shop No.5. Feeling aggrieved by the same, respondent No.5 filed an appeal before respondent No.1. By impugned order, dated 02.11.2011, respondent No.1, while disposing of the appeal and remanding the matter to respondent No.2 for reconsideration, gave the option to respondent No.5 to choose either shop No.4 or shop No.5.

Though respondent No.5 entered appearance through a counsel, none appeared for him at the hearing.

Mr.S.V.Ramana, learned counsel representing Mr.O.Manohar Reddy, learned counsel for the petitioner, who is the fair price shop dealer of shop No.5 submitted that while his client has no objection for the impugned order of respondent No.1 remanding the case to respondent No.2 for reconsideration, he is only aggrieved to the extent of the option being given to respondent No.5 to choose either shop No.4 or shop No.5.

In find merit in this submission of the learned counsel for the petitioner. When respondent No.5 has questioned the relocation of his

shop i.e., shop No.4 after deletion of certain cards attached to the said shop and adding the same to shop No.5, his appeal should have been confined to the legality or otherwise of the said decision. When the petitioner was not even impleaded as the respondent in the appeal before respondent No.1, respondent No.5 ought not to have been provided with the option to choose the shop of which the petitioner is the fair price shop dealer.

In view of the above facts and circumstances of the case, the impugned order, dated 02.11.2011, of respondent No.1 only to the extent of giving respondent No.5 the option to choose between shop No.4 and shop No.5 is set aside. The remaining order of respondent No.1 is not interfered with.

The Writ Petition is allowed to the extent indicated above.

As a sequel to allowing the writ petition, W.P.M.P.No.39337 of 2011 is disposed of and W.V.M.P.No.247 of 2012 is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

03rd September, 2015

GHN