

*** The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

+ Writ Petition No.17964 of 2011

—

% Dated 03.06.2015

—

Between:

K.Bharathi

... Petitioner

and

Joint Collector & Addl.Dist.Magistrate

Anantapur District and 3 others

...Respondents

! Counsel for the petitioner: Mr.P.R.Balarami Reddy

^ Counsel for respondents 1 to 3: GP for Civil Supplies (AP)

^ Counsel for respondent No.4:Ms.Addula Triveni

< GIST:

> HEAD NOTE:

? Cases cited:

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.17964 of 2011

—

Dated 03.06.2015

—

Between:

K.Bharathi

... Petitioner

and

Joint Collector & Addl.Dist.Magistrate

Anantapur District and 3 others

...Respondents

Counsel for the petitioner: Mr.P.R.Balarami Reddy

Counsel for respondents 1 to 3: GP for Civil Supplies (AP)

Counsel for respondent No.4:Ms.Addula Triveni

The Court made the following:

Order:

At the interlocutory stage, the Writ Petition is taken up for hearing and disposal with the consent of the learned Counsel for the parties.

I have heard Mr.P.R.Balarami Reddy, learned Counsel for the petitioner, learned Government Pleader for Civil Supplies (AP) representing respondent Nos.1 to 3 and Ms.Addula Triveni, learned Counsel for respondent No.4.

Respondent No.2 has notified the vacancy of permanent fair price shop dealer of S.Beerepalli Village, Parigi Mandal, Anantapur District on 10-01-2011. In pursuance of the said notification, the petitioner as well as respondent No.4 have applied for being appointed as such. Interview was conducted by respondent No.2 on 11-04-2011. Following the said interview, respondent No.2 has issued the proceedings on the following day *i.e.*, on 12-04-2011 appointing the petitioner as the permanent dealer of the fair price shop in question. Feeling aggrieved by the petitioner's appointment as such, respondent No.4 has filed an appeal before respondent No.1. By the impugned order, respondent No.1 has set aside the petitioner's appointment on the sole ground that respondent No.2 has appointed the petitioner contrary to the guidelines contained in G.O.Ms.No.52, Consumer Affairs, Food and Civil Supplies (CS.I) Department, dated 18-12-2008.

Before considering the guidelines, it is apt to reproduce hereunder, the reasoning of respondent No.1, based on which she has set aside the petitioner's appointment:

“According to the guidelines No.1 (1) annexed to G.O.Ms.No.52 Consumer Affairs, Food and Civil Supplies (CS.I) Department dated 18-12-2008 (which were in force as on the date of issue of notification) all the vacancies of fair price shops shall be notified on

1st of every month by the Appointing Authority and invite the applicants for walk in interviews along with original certificates on a specified date, atleast after ten clear days time of the notification. The results shall be announced on the next day of the interview. There shall be no postponement of the date by the Appointing Authorities.

As seen from the record, the Respondent No.1 has notified the vacancy of S.Beerepalli Village, Parigi Mandal on 10-01-2011 vide Rc.No.66/2011//C and the interview was conducted on 11-04-2011.

Thus, contrary to the above guidelines, the notification is issued on 10-01-2011 *i.e.*, instead of 1st of the month and interviews conducted on 11-04-2011 *i.e.*, after lapse of three months from the date of issue of notification.”

Clause 1 of Annexure to G.O.Ms.No.52, CAF&CS (CS.I) DEPT., dated 18-12-2008, to the extent it is relevant reads as under:

“1. NOTIFICATION OF VACANCIES OF FAIR PRICE SHOPS: -

1. All vacancies of Fair Price Shops shall be notified on 1st of every month by the Appointing Authority and invite the applicants for walk in interviews along with original certificates on a specified date atleast after ten clear days time of the notification. The results shall be announced on the next day of the interview. There shall be no postponement of date by the appointing authorities.”

It is no doubt true that under Clause 1 of the guidelines, which is reproduced herein above, the appointing authority shall notify the vacancies on the first of every month and allow atleast 10 days' time to the applicants to make applications before holding interviews.

It can be deciphered from the impugned order passed by respondent No.1 that the petitioner's appointment was set aside on two grounds *viz.*, (1) That respondent No.2 has not notified the

vacancy on the 1st of January, 2011 and instead, he has notified the same on the 10th of January, 2011; and (2) That the interviews were conducted on the 11th of April, 2011 *i.e.*, after a lapse of three months from the date of issue of notification.

In my opinion, while construing the guidelines contained in the annexure to G.O.Ms.No.52, dated 18-12-2008, respondent No.1 has adopted a pedantic approach. Firstly, she has failed to perceive that the guidelines are intended only for the guidance of the executive apparatus and that they cannot be read like a statute. Unless any prejudice is caused to any person on account of departure from the guidelines, mere technical violation of the same would not vitiate the action undertaken by the authority concerned. Instead of notifying the vacancies on 01-01-2011, respondent No.2 has notified the same on 10-01-2011. Clause 1 of the guidelines cannot be treated as a statutory provision laying down limitation for notifying the vacancies. The obvious intention behind the said Clause was to ensure that the vacancies are notified on a monthly basis, instead of allowing them to accumulate, and that the vacancies are filled up without delay. It is not the pleaded case of respondent No.4 that the delay of 10 days in notifying the vacancy caused any prejudice to her. On the contrary, respondent No.4 has taken her chance by applying in pursuance of the purported delayed notification without any demur. Having thus taken her chance and failed to get selected, respondent No.4 cannot be allowed to question the validity of the notification on the purported ground of delay.

As regards the second reason, the notification stipulates minimum time limit for holding interview from the date of its issuance, obviously, with a view to provide sufficient opportunity to the intending candidates to make their applications. No outer limit is prescribed for holding interviews. At any rate, holding interviews in the month of April, 2011 *i.e.*, within three months of issuing notification cannot be considered as inordinate delay to vitiate the

selection process undertaken by respondent No.2. These reasons impel me to hold that the grounds, on which respondent No.1 has set aside the appointment order of the petitioner, are wholly unsustainable.

Learned Counsel for respondent No.4 has submitted that her client has questioned the petitioner's appointment order on another ground viz., that she does not have proper education qualifications. However, neither respondent No.4 has filed the grounds of appeal nor respondent No.1 has adverted to any other ground in the impugned order. Though respondent No.4 entered appearance through her counsel as far back as August, 2011, she has not filed her counter-affidavit, justifying the impugned order on any other ground, much less on the above noted ground. Therefore, she cannot be permitted to raise such a ground at the hearing of the Writ Petition.

On the analysis as above, the impugned order of respondent No.1 is quashed and the proceeding in Rc.No.66/2011/6, dated 12-04-2011, issued by respondent No.2 appointing the petitioner as the permanent dealer of the fair price shop of S.Beerepalli Village, Parigi Mandal, Anantapur District, is restored.

Accordingly, the Writ Petition is allowed.

As a sequel, interim order, dated 29-06-2011, is vacated and WVMP.No.3131 of 2011 in/& WPMP.No.21618 of 2011 are disposed of.

(C.V.Nagarjuna Reddy, J)

Dt: 3rd June, 2015

Note:

LR copies to be marked

B/o

LUR

