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THE HON'BLE SRI JUSTICE A.V. SESA SAI
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Writ Petition No.28703 of 2008
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ORDER:

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_____ This writ petition is filed under Article 226 of the Constitution of India, seeking to issue a *Writ of Certiorari* calling for the records relating to the proceedings of the 1st respondent, vide R.P.No.2/2008/CSR7, dated 02-12-2008, confirming the proceedings of the 2nd respondent in A.C.No.11/06/CSR7, dated 26-04-2008, and the proceedings of the 3rd respondent in CSC No.24/05-C, dated 15-09-2006, in which the authorization of the petitioner was cancelled, and declare the same as illegal, unjust, and violative of Article 19(g) of the Constitution of India, and consequently set aside the same by directing the respondents to continue the petitioner herein as Fair Price Shop Dealer of F.P.Shop No.52, Dibbapalem Village, Anakapalle Mandal, Visakhapatnam District.

2. _____ Heard Sri Ch. Venkata Narayana, learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

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3. _____ By way of an order, vide proceedings CSC No.24/05-C, dated 15-09-2006, the Revenue Divisional Officer, Visakhapatnam, the 3rd respondent herein cancelled the fair price shop authorization of the petitioner. Against the said order of cancellation, the petitioner filed an appeal before the Joint Collector, the 2nd respondent herein, and the Joint Collector, by way of an order, vide proceedings dated A.C.No.11/2006/CSR7, dated 26-04-2008 dismissed the said appeal.

As against the said order, the petitioner herein filed a revision before the District Collector, Visakhapatnam, the 1st respondent herein. The District Collector also dismissed the said revision, vide proceedings in R.P.No.2/2008/CSR7, dated 02-12-2008. The said orders passed by the respondents 1 to 3 herein are challenged in the present writ petition.

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4. In the instant case, on account of the employment of the petitioner in Cooperative Sugar Factory, and on the ground of contravention of G.O.Ms.No.53, Consumer Affairs, Food and Civil Supplies (CS.1) Department, dated 06-10-2003, the authorization of the petitioner was cancelled. Even as per the respondents, at the relevant point of time, the petitioner herein was not working, and he worked prior to the relevant period. There is absolutely no dispute as regards the fact that the petitioner herein was initially appointed as fair price shop dealer, in the year 1992. Today, when the matter is taken up for hearing, a copy of the order passed by a Division Bench of this Court in W.P.No.12125 of 1997, dated 04-08-1997 is placed on record, by the learned counsel for the petitioner, wherein this Court passed an order, giving option to the petitioner therein, who resigned from the post of Sarpanch. It was also observed that in the event of the petitioner submits his resignation for the post of Sarpanch within two weeks, he shall be allowed to continue as a fair price shop dealer.

5. Another significant factor, which needs to be mentioned in the instant case is that, at the relevant point of time, the petitioner herein admittedly, is not working in the Cooperative Sugar Factory. It is also vital to note that by an order, vide proceedings in Rc.No.4010/2005/C, dated 24-04-2013, the Revenue Divisional Officer restored the authorisation of the petitioner herein and he is working as on date.

A copy of the said proceedings dated 24-04-2013 is placed on record. The proceedings dated 18-12-2008 produced by the petitioner also shows that he discontinued as daily wage Clerk from the Sugar Factory. His resignation was also accepted. Therefore, taking into consideration the totality of the circumstances and keeping in view the order passed by the Division Bench of this Court, referred to above, and taking into account the proceedings of the Revenue Divisional Officer, dated 24-04-2013, this Court deems it appropriate to direct the respondents to continue the petitioner herein as a fair price shop dealer.

6. In view of the above reasons, the writ petition is allowed, and the impugned orders passed by the respondents are set aside and the petitioner herein shall be continued as a fair price shop dealer. It is also made clear that, in future, if the petitioner contravenes any instructions, it shall be open to the respondents to take appropriate action, in accordance with law.

7. The miscellaneous petitions filed in the writ petition shall also stand disposed of. There shall be no order as to costs.

A.V. SESA SAI, J.

Dt.17-03-2015.

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