

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.19969 of 2011

Date:08.10.2015

Between:

T.Kalakrishna,

S/o Kesavulu Naidu

..... Petitioner

And:

The Joint Collector,

SPSR Nellore District and another.

.....Respondents

Counsel for the Petitioner: Mr. V.Roopesh Kumar Reddy

Counsel for the Respondents: AGP for Revenue (AP)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to set aside notification, vide Rc.B.1414/2011, dated 30.6.2011, issued by No.2, in respect of Regadichelika fair price shop of SPSR Nellore District, in spite of operation of interim stay granted by respondent No.1-Joint Collector.

The petitioner's father was a fair price shop dealer of the above-mentioned shop. On his death in a road accident, a permanent vacancy arose and respondent No.2 issued notification, dated 16.04.2011, inviting applications for filling up the permanent vacancy, wherein it was shown that the said shop was reserved for ST community. The petitioner averred that he has made a representation to respondent No.2 stating that the said fair price shop was earlier earmarked for OC (General); that his father was

appointed in the said vacancy; and that their whole family was dependent upon the running of the fair price shop by his father. He has further averred that as respondent No.2 was seeking to go ahead with appointment, he filed an appeal before respondent No.1, who by order, dated 29.4.2011, granted interim stay of the notification and that in spite of the stay order being in force, respondent No.2 has issued a fresh notification, dated 30.6.2011, reserving the shop to BC (Women).

This Court by order, dated 15.7.2011, granted stay of further steps in pursuance of the impugned notification. Later, a counter-affidavit along with Vacate Stay application is filed.

In the counter-affidavit, respondent No.2 while denying that the impugned notification was issued when the interim order granted by respondent No.1 was in subsistence, has stated that respondent No.1 has modified the order of stay granted by him on 29.04.2011 by passing the following speaking order on 07.5.2011:

“Aggrieved by the notification, the appellant has filed for stay on the grounds (1) without ascertaining the availability of educated person from S.T. community in the Village, the vacancy was notified for S.T. community, (2) the time gap between the receipt of applications and interview is very short, that considering the merits of the case and lapses on the part of the Appointing Authority, the notification is set aside with the direction to issue fresh notification duly observing the procedure laid down in G.O.Ms.No.4, CA, F & CS, dated 19.02.2011 and dispose of the petition.”

Respondent No.2 has, accordingly, pleaded that in pursuance of the order, dated 07.5.2011, of respondent No.1 and keeping in view the past experience of non-receipt of applications from ST community on the past two occasions, the impugned notification was issued on 30.6.2011 reserving the said vacancy to B.C (Women) in a sequential manner so as to appoint permanent dealer to avoid inconvenience to the card holders. It is further averred that as per G.O.Ms.No.4, Consumer Affairs, Food and Civil Supplies (CS-1), dated 19.02.2011, the appointing authority shall maintain the percentage of reservation treating the entire Revenue Division/Circle as an Unit; that as there was a shortfall in the S.T. category, initially, the vacancy was allotted to the said category; and that as no applications were received during two successive notifications, a fresh notification was issued by

reserving the vacancy to B.C. (Women) category in a sequential manner duly observing the procedure laid down in G.O.Ms.No.4, dated 19.02.2011.

No reply-affidavit is filed controverting the above-mentioned averments in the counter-affidavit.

Learned Assistant Government Pleader for Civil Supplies (Andhra Pradesh) submitted that duly taking into consideration the averments in the counter-affidavit of respondent No.2, this Court by order, dated 12.12.2012, in WVMP.No.4199 of 2012 vacated the interim stay granted on 15.7.2011; and that in pursuance thereof, the vacancy in respect of the above-mentioned fair price shop has been filled up on permanent basis through order, dated 21.3.2013, by respondent No.2.

Having regard to the detailed reasons assigned by respondent No.2 justifying the change of category from ST to B.C (Women) and the further fact that the vacancy has already been filled up during the pendency of the Writ Petition following vacation of the interim order, dated 15.7.2011, by this Court, the petitioner is not entitled to any relief in this Writ Petition.

The Writ Petition is, accordingly, dismissed.

JUSTICE C.V.NAGARJUNA REDDY

08th October 2015

DR