

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

WRIT PETITION No.24816 of 2015

ORDER:

This Writ Petition is filed challenging the action of respondents in not appointing the petitioner as Fair Price Shop dealer on compassionate grounds pursuant to G.O.Ms.No.4 Consumer Affairs, Food and Civil Supplies (CS-1) Department dt.28-02-2014.

2. The petitioner's mother was a Fair Price Shop dealer of shop No.93, Kanuru Pallepalem village, Machilipatnam Mandal, Krishna District. She died on 30-03-2014. The petitioner is her son. He was born on 13-09-1997. On 17-07-2015, the petitioner filed an application for appointment on compassionate grounds invoking G.O.Ms.No.4 referred to above.
3. Without considering the petitioner's case, an advertisement was issued in RCC.No.2811 of 2015 dt.13-07-2015 inviting applications to fill up the vacancy caused by the death of petitioner's mother on permanent basis.
4. The petitioner challenged the same in this Writ Petition.
5. Heard Sri K.Vinaya Kumar, learned counsel for petitioner and learned Government Pleader for respondents.
6. Learned counsel for petitioner contended that as per G.O.Ms.No.4 supra, the Government had decided to appoint the legal heirs of the deceased Fair Price shop dealer and issued guidelines in that regard; that the guidelines contemplated that in case of death of a Fair Price Shop dealer, his or her legal heirs

would be considered; compassionate appointment would also be applicable to persons who are within the age limit as on the demise of the Fair Price Shop dealer; merely because the petitioner fell short by 2 months, the petitioner cannot be denied the compassionate appointment by respondents.

7. Learned Government Pleader, however, contended that notification had been issued on 13-07-2015 inviting applications for the shops including the one where petitioner's mother was a Fair Price Shop dealer; 6 applications had been received including that of the petitioner and written examination was conducted on 07-08-2015, but the result of the same had not yet been announced; since the petitioner is under aged as on date of death of his mother, he is not entitled to be appointed on compassionate grounds. The learned Government Pleader contended that as per G.O.Ms.No.52 dt.18-12-2008, the minimum age for applying for grant of a Fair Price Shop dealership would be completion of 18 years of age and maximum age would be 40 years; therefore since the petitioner had not completed 18 years by the date of his application for appointment of Fair Price Shop dealer, he cannot be appointed.

8. I have noted the submissions of both sides.

9. G.O.Ms.No.52 dt.18-12-2008 deals with selection and appointment of Fair Price Shop dealers and issuance of authorization to such Fair Price shops. It does not deal with making of compassionate appointments as such. No doubt, minimum age has been prescribed therein as contended by the learned Government Pleader, but that is for making appointment as Fair Price Shop dealer. It is G.O.Ms.No.4 dt.28-02-2014 which

deals with appointment on compassionate grounds of legal heirs of deceased Fair Price Shop dealers with a view to provide means of sustenance to their families.

10. Clause 6(iv) of the said G.O. no doubt states that compassionate appointment shall also be applicable to the persons who were within the age limit as on the date of the demise of the Fair Price Shop dealer. But it does not prohibit the persons making application for appointment as Fair Price Shop dealers before they attain the age limit of 18 years. So the interpretation of the learned Government Pleader that since petitioner was under aged at the time of marking the application for appointment on compassionate grounds or on the date of his mother's death, and so he cannot be appointed, is not tenable. The day the parent dies is not within the control of the applicant. It is not as if he can dictate his/her parent to die at a particular time (i.e.) after the applicant completes 18 years.
11. It is not as if on the very date when the petitioner applied for appointment on compassionate ground as Fair Price Shop Dealer, the respondents would consider and appointment him as such. The process of verification of the claim of petitioner would itself take reasonable time.
12. Since the very purpose of providing a compassionate appointment to legal heirs of the deceased Fair Price Shop dealer is to provide sustenance to the family of the deceased Fair Price Shop dealer, merely because the petitioner happened to be below 18 years on the date of death of his mother or on the date when he applied to be appointed on compassionate grounds, it would be arbitrary not to consider his claim on

compassionate grounds on the said basis. As on date, the petitioner had completed the minimum requirement of 18 years of age as prescribed as prescribed in G.O.Ms.No.52 dt.18-12-2008. The process of filling up the vacancy of the Fair Price Shop created by the death of petitioner's mother (initiated by respondents by inviting applications) had not yet been completed.

13. Having regard to these circumstances and also having regard to the fact that G.O.Ms.No.4 dt.28-02-2014 mentions only guidelines and *prima facie* those guidelines appear to be violated if the case of petitioner is not considered for appointment as Fair Price Shop dealer, the Writ Petition is allowed and the notification dt.13-07-2015 is set aside and respondents are directed to consider the claim of petitioner for compassionate appointment as Fair Price Shop Dealer in respect of the said shop. This exercise shall be completed within a period of four (04) weeks from the date of receipt of a copy of this order. No costs.

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

JUSTICE M.S. RAMACHANDRA RAO

Date: 02-11-2015

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