

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

WRIT PETITION NO.37026 OF 2012

DATED:03-06-2015

Between:

Chamakuri Vinaykumar ... Petitioner

And

The Government of Andhra Pradesh

Rep. by its Collector (Civil Supplies)

Warangal

and others

... Respondents

COUNSEL FOR THE PETITIONER: Mr. A. Ravinder

COUNSEL FOR THE RESPONDENTS: G.P. for Civil Supplies (TS)

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THE COURT MADE THE FOLLOWING:

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ORDER:

This writ petition is filed for a Mandamus declaring the action of respondent No.2 in not allowing the petitioner to write examination conducted on 25.11.2012 for appointment as fair price shop dealer of Kummarikuntla Village of Narisimulapet Mandal, Warangal District, as illegally and arbitrary.

The petitioner's father was a permanent fair price shop dealer of Kummarikuntla Village and upon his death the permanent vacancy has arisen which was notified by respondent No.2 by Notification dt.1.11.2012. The petitioner, who was only holding the educational qualification of VIII Class, has applied for appointment as fair price shop dealer in pursuance of the said notification. However, as he was not holding the minimum educational qualification of X Class, he was not permitted to appear for the written examination. Feeling aggrieved thereby, the petitioner has filed this writ petition.

Mr. A. Ravinder, learned counsel for the petitioner, submitted that as per Clause-5 of the Notification dt.1.11.2012 a candidate for dealership must have passed X Class and if such candidates are not available, the candidates must have passed at least VII Class.

The learned Government Pleader for Civil Supplies (TS) submitted that the candidate who was selected and appointed, has passed X Class and therefore refusal to permit the petitioner to appear for the written examination, is not illegal.

I find merit in the submission of the learned Government Pleader. A candidate who has passed VII Class and has not passed X Class is eligible only if no other applicant has passed X Class. As the selected candidate has passed X Class, the action of respondent No.2 in not permitting the petitioner to appear for the written examination cannot be said to be illegal or improper.

The learned counsel for the petitioner submitted that though at the time of selection the Government has not taken a policy decision providing for compassionate appointment, thereafter it has issued G.O. Ms. No.4, dt.28.2.2014 providing for compassionate appointment. In my opinion, as the petitioner's right for compassionate appointment has not crystallized as on the date of the notification and the vacancy has already been filled up by the time the Government has issued G.O. Ms. No.4, dt.28.2.2014, the appointment already made by respondent No.2 cannot be disturbed and the appointee cannot be ousted. Therefore, the relief as claimed in the writ petition cannot be granted to the petitioner. However, the respondents are directed to consider the claim of the petitioner for compassionate appointment for any other vacancy, if he approaches, subject to his eligibility.

The writ petition is accordingly dismissed.

As a sequel to dismissal of the writ petition, the interim order granted on 30.11.2012 and which was directed to be continued by order dt.5.12.2012, shall stand vacated and W.P.M.P. No.46981 of 2012 and W.P.M.P. No.19702 of 2013 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

3-6-2015

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