

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.2411 of 2012

% 10.06.2015

**Between:**

# Davuluru Prasad,

S/o Sanyasayya

..... **Petitioner**

**And:**

\$ The Revenue Divisional Officer,

Kavali, SPSR Nellore District

and two others.

.....**Respondents**

< Gist:

> Head Note:

! Counsel for the Petitioner: Sri Lakkadi Dayaker Reddy

^ Counsel for the Respondents: AGP for Civil Supplies (AP)

? Cases Referred:

**NIL**

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Counsel for the Petitioner: Sri Lakkadi Dayaker Reddy

Counsel for Respondents: AGP for Civil Supplies (AP)

The Court made the following:

ORDER:

This Writ Petition is filed for a *Mandamus* to declare the action of respondent No.1, in appointing respondent No.3 as fair price shop dealer of Shop No.2 of Vavilla Village, Vidvaluru Mandal, SPSR Nellore District, vide his proceedings in Rc.B/157/2007, dated 28.12.2011, as illegal and arbitrary.

The petitioner, who is one of the card holders attached to the above-mentioned fair price shop, pleaded that the father of respondent No.3 is working as a Village Servant of Vavilla Village and that therefore, she was not eligible to be considered and appointed as fair price shop dealer. In order to sustain his challenge, the petitioner has placed reliance on Clause-12(iii) of G.O.Ms.No.4, Consumer Affairs, Food and Civil Supplies (CS-1) Department, dated 19.02.2011.

Before dealing with the aforesaid Clause, I am of the opinion that the petitioner could not satisfy his locus to question the appointment of respondent No.3. No doubt, being a card holder he may be interested in proper distribution of essential commodities but his interest would not extend beyond this. Eight persons have applied for fair price shop dealership, out of whom, five were found eligible for consideration. Respondent No.3, having been found more suitable than other short-listed candidates, was appointed as the fair price shop dealer. Interestingly, none of the unsuccessful candidates have questioned the appointment of respondent No.3. While exercising the power of judicial review under Article-226 of the Constitution of India, I feel that in a case of this nature, where the really interested parties have not questioned the appointment of respondent No.3, this Court would not intervene at the instance of a person who has only a limited concern with the functioning of the fair price shop dealer. Therefore, I am not inclined to interfere with the impugned order at the instance of the petitioner.

Even otherwise, I am not convinced with the plea of the petitioner that respondent No.3 is not eligible for being appointed as fair price shop dealer.

Clause-12(iii) of G.O.Ms.No.4, which is made the sole basis for challenging the appointment of respondent No.3, reads as under:

“Close relatives of Government employees especially those working in Civil Supplies Department or Revenue Department or the Civil Supplies Corporation or Village Administrative Officer of the Village shall not be appointed as F.P. Shop Dealers; there shall however be no objection to appoint family members or

relatives of employees working on contractual basis on consolidated pay like Anganwadi teachers, ANMs, Asha workers, Vidya Volunteers, out sourcing employees etc.”

A careful analysis of the above reproduced Clause shows that close relatives of the Government employees working in Civil Supplies or Revenue Department or the Civil Supplies Corporation are rendered ineligible for being appointed as fair price shop dealers. In addition to the above-mentioned categories, the close relatives of the Village Administrative Officer of the Village are also rendered ineligible. The Village Administrative Officer is also an employee of the Revenue Department. If the Government intended to include all the functionaries of the Revenue Department irrespective of their cadre in the said Clause, there was no need for it to refer to the category of Village Administrative Officers separately. The main intention behind Clause-12(iii) of the said G.O. appears to be that if the close relatives of the Government employees working in the Civil Supplies or Revenue Departments or Civil Supplies Corporation are appointed, there is a likelihood of the dealers misusing the position of their close relatives. Therefore, from the context in which the phrase “the Government employees” is used, it is reasonable to construe that the low cadre employees such as Village Servants, who are in no position to wield influence, are excluded. Though the Village Administrative Officer is also not a highly placed employee, considering the hold he may have over the people of the Village, because of importance of the functions he discharges, this category is also included separately despite the same being a part of Revenue Department. At the same time, the Village Servant is not included in the said Clause.

Viewed from this perspective, I am of the opinion that respondent No.3 cannot be disqualified merely because her father was the Village Servant of Vavilla Village.

For the above-mentioned reasons, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, interim order, dated 01.02.2012, is vacated and WPMP.No.2992 of 2012 and WVMP.No.66 of 2013 are dismissed as infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

*10<sup>th</sup> June, 2015*

*Note:*

*LR copies to be marked.*

*B/o*

*DR*