

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

WRIT PETITION NO.28605 OF 2012

DATED:05-8-2015

Between:

Ch. Siva Lakshmi

... Petitioner

And

The Collector and District Magistrate
Guntur, Guntur District
and others

... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. V.Sudhakar Reddy

COUNSEL FOR RESPONDENT NOS.1 to 3: A.G.P. for Civil Supplies
(AP)

COUNSEL FOR RESPONDENT NO.4 : Mr. K. Srinivas

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for a mandamus to set aside order in Revision Case No.12/2011-S7, dt.8.8.2012, of respondent No.1, whereby he has dismissed the revision petition filed by the petitioner against order in A.C.D. Dis.No.12/2011-S7, dt.3.12.2011, of respondent No.2.

2. The facts leading to filing of this writ petition are briefly stated hereunder:

A notification for filling up the vacancy of fair price shop of Circle No.24, Guntur, was notified by respondent No.3. The notification has fixed 16.11.2010 as the last date for filing applications. It is not in dispute that respondent No.3 has followed the method of holding walk-in- interviews. It is stated in the notification that walk-in-interviews will be held on 18.11.2010 and the candidates who have not filed their applications before 16.11.2010 can attend the interviews on 18.11.2010 directly and submit applications along with necessary certificates. It has so happened that the interviews were not held on 18.11.2010, and also on 27.11.2010, 29.11.2010 and 20.12.2010 to which dates they were postponed. On 29.12.2010 interviews were held. The petitioner appeared along with her application on that day and got selected as the fair price shop dealer. Respondent No.4, who has applied within the stipulated time, however, claimed that he has also attended the interview on 29.12.2010, but as per the finding rendered by respondent No.3 in his order selecting the petitioner, he has not attended the interview on that day. Feeling aggrieved by the selection of the petitioner, respondent No.4 has filed an appeal before respondent No.2 who has allowed the same only on the ground that

the petitioner did not make her application on or before 16.11.2010 and therefore she is not eligible for appearing for interview. Respondent No.1 has affirmed the order of respondent No.2 in the revision filed by the petitioner.

3. The petitioner's selection as fair price shop dealer was assailed by respondent No.4 on two grounds, namely, that she is not a resident of the place which falls in Koretipadu area of Guntur Municipal Corporation, for which the shop has been notified and that she has not made her application on or before 16.11.2010, the last date fixed for filing such applications.

4. As regards the first objection of respondent No.4, a perusal of the order of respondent No.2 shows that a report was called for from the Tahsildar, Guntur, and that accordingly, vide his letter in Rc. No.224/2011-CSRI, dt.10.6.2011, the Tahsildar, after enquiry, reported that the petitioner is residing at house bearing D.No.4-5-154, which forms part of Koretipadu area, Guntur. Based on this report, respondent No.2 has rejected the said objection of respondent No.4.

5. Respondent No.2 has, however, accepted the second objection of respondent No.4 that the petitioner has neither made an application on or before 16.11.2010, nor attended the walk-in-interview fixed for 18.11.2010 and that she has also not attended the interview which was postponed to 29.11.2010 on which date also the interviews were not held and were postponed to 20.12.2010. Respondent No.2 has further observed that interviews were further postponed from 20.12.2010 to 29.12.2010, on which date respondent No.3 has made an endorsement on the petitioner's application and allowed her to the interview.

6. In short, the only ground on which respondent No.2 has allowed the appeal of respondent No.4 was that though the notification has mentioned 16.11.2010 as the last date for making applications, the petitioner's application was found with the initial of respondent No.3 made on 29.12.2010 and that this fact itself established that the

petitioner's application was received after the due date prescribed for making applications.

7. In his order dt.8.8.2012, respondent No.1 has rendered a finding that the petitioner made her application on 29.11.2010, that respondent No.3 was waiting for the petitioner to make the application without holding interviews and that only after ensuring that the petitioner has made her application, respondent No.3 has proceeded with the interview on 29.12.2010. In my opinion, this observation is wholly without any basis. On respondent No.1's own showing the petitioner made her application on 29.11.2010. If the reason for respondent No.3 to postpone the interviews was only to enable the petitioner to make her application, there was no reason why he did not go ahead with interviews scheduled on 29.11.2010 and 20.12.2010, on both of which dates the petitioner's application was available. It is only on 29.12.2010 that respondent No.3 has conducted the interviews. These undisputed facts would render the adverse inference drawn by respondent No.1 against respondent No.3 wholly baseless.

8. Coming to the reason assigned by respondent No.2 for nullifying the selection of the petitioner, admittedly respondent No.3 has followed the procedure of walk-in-interviews. Though respondent No.3 has fixed 16.11.2010 as the last date for making applications, the notification specified that the candidates who have not made applications before the said date can appear for walk-in-interviews fixed for 18.11.2010. This procedure adopted by respondent No.3 clearly shows that no sanctity was attached to the last date prescribed for making applications. It therefore necessarily means that even if a candidate has not filed his application on or before 16.11.2010, he is entitled to attend the interview whenever it takes place by presenting his application in such interview. For unknown reasons, respondent No.3 has postponed the interviews from 18.11.2010 on three occasions, namely, 27.11.2010, 29.11.2010 and 20.12.2010, and finally held interviews on 29.12.2010, by which time the petitioner has

made her application, i.e., on 29.11.2010. If a person who has not filed his application on or before 16.11.2010 could be allowed to appear for walk-in-interview on 18.11.2010, this Court finds no reason or rationale why such candidates who have not attended interview on 18.11.2010 should not be allowed to attend interview on the subsequent dates to which it was postponed. In my view, as respondent No.3 followed the procedure of walk-in-interview, which means that whenever interviews take place a candidate can present his/her application, his action in allowing the petitioner to attend the interview even though she has not made her application on or before 16.11.2010, does not suffer from any illegality. Evidently, respondent Nos.1 and 2 have failed to understand the concept of walk-in-interview while setting aside the order of respondent No.3, selecting the petitioner.

9. There is a controversy as to whether respondent No.4 has attended the interview on 29.12.2010. While respondent No.3 has categorically observed that the petitioner and one Vankudavath Babu Rao Naik alone have attended the interview on that date, respondent Nos.1 and 2 rendered a finding that the attendance sheet maintained by the office of respondent No.3 shows that respondent No.4 has also attended the interview. In the view this Court has taken supra, it finds it unnecessary to render any finding on this disputed question.

10. On the above analysis, this Court is of the opinion that respondent Nos.1 and 2 have committed a serious illegality in setting aside the petitioner's selection only on the ground that she failed to make her application on or before 16.11.2010.

11. Accordingly, the orders of respondent Nos.1 and 2 are aside and the order of respondent No.3 appointing the petitioner as fair price shop dealer stands restored.

12. The writ petition is accordingly allowed.

As a sequel to disposal of the writ petition, W.P.M.P. No.36482 of 2012 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

05-8-2015

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