

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.15349 OF 2010

ORDER:

Petitioner challenges the Notification dated 17.06.2010 issued by the 3rd respondent-The Revenue Divisional Officer, Madanapalle, Chittoor District, calling for applications from the Backward Class (Women) for appointment of Fair Price Shop Dealer for Shop No.13 of Nawabkota of Thummarakunta Village, by way of this Writ Petition.

The Writ Petitioner challenged the impugned notification on the ground the same is in violation to the guidelines issued under G.O.Ms. No.53 FCS and CA (CS-1) Dept., dated 06.10.2003, whereunder, under Clause 7 of the guidelines 23% of the reservation is made for Backward Classes. It is the contention of the petitioner that the reservation has been made at the instance of the local M.L.A. for Shop No.13 of Nawabkota, which is under de-reserved category changed into category of Backward Class community (Women).

Learned counsel for the petitioner submits that being satisfied with the averments made in the affidavit, this Court granted stay of Notification on 30.06.2010 and the respondents have not filed counter denying the allegations made by the petitioner. Particularly, there are more number of reserved Fair Price Shop Dealers than what has been notified in G.O.Ms.No.53, dated 06.10.2003.

On the other hand, learned Government Pleader seeks time for filing counter.

Having gone through the affidavit filed in support of the writ petition, I am not inclined to adjourn the matter to enable the learned Government Pleader to file a counter, especially after considering the fact that the writ petition is of the year 2010. The affidavit filed by the petitioner does not disclose the number of Fair Price Shop dealers existing as on the date of filing of the writ petition and out of the total number how many were in reserved category and how many were in open category. In the absence of this crucial material, the basic question which could be the basis for the controversy in this case cannot be decided. It is well settled that it is for the petitioner to make a positive case for getting a relief. Non-filing of the counter cannot be a ground to allow the writ petition and assume that there is a clear violation of the G.O.Ms.No.53. Inasmuch as, the petitioner does not have any subsisting interest and the writ petition itself came to be filed seeking a general direction and at best he may be construed to be an aspirant, who expects to get selected as a Fair Price Shop Dealer, no useful purpose would be served in stalling the appointment of a Fair Price Shop Dealer, thus depriving the general public of the services of the Fair Price Shop Dealer. On this simple ground of want of particulars, the Writ Petition fails and accordingly, the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. Further, the petitioner is at liberty to approach this Court or exercise his other rights in accordance with law, if he is otherwise aggrieved.

There shall be no order as to costs. Consequently, the miscellaneous petitions, if any, pending shall also stand dismissed.

CHALLA KODANDA RAM, J

Dated: 27.11.2015
Ssv