

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

WRIT PETITION NO.19939 OF 2011

DATED:03-06-2015

Between:

K. Pavankumar ... Petitioner

And

The Director of Civil Supplies

Civil Supplies Bhavan,

Yerramangil

Hyderabad

and others

... Respondents

COUNSEL FOR THE PETITIONER: Mr. Kothapalli Ram Mohan Chowdary

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

THE COURT MADE THE FOLLOWING:

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ORDER:

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This writ petition is filed for a Mandamus to set aside Proceedings in D.Dis No.K5/94/2011, dated 11.2.2011, of respondent No.2 and the endorsement dt.28.6.2011, vide CCS. Ref. No.N1/3425/2011, dt.28.6.2011, of respondent No.1.

I have heard Mr. Kothapalli Ram Mohan Chowdary, learned counsel for the

petitioner, and the learned Assistant Government Pleader for Civil Supplies (AP).

The petitioner is the fair price shop dealer of Renumakulapalli Village, Uravakonda Mandal, Anantapur District. His shop was allotted 462 ration cards, consisting of 425 white cards, 36 AAY Cards and 1 AP Card. On a proposal mooted by respondent No.3, respondent No.2 has bifurcated the existing shop by creating a new shop, vide his proceedings D.Dis.No.K5/94/2011, dt.11.2.2011. In the said proceedings, respondent No.2 has allotted 230 ration cards, comprising 212 white cards and 18 AAY cards, to the petitioner. Feeling aggrieved by the said order, the petitioner has filed an appeal before respondent No.1. The said appeal was returned by the office of respondent No.1 with an endorsement dt.28.6.2011 on the ground that the same is time barred. The petitioner has therefore filed the present writ petition in order to question the orders of respondent Nos.1 and 2.

The sheet-anchor of the petitioner's case is that the order of bifurcation of the fair price shop is contrary to G.O. Ms. No.35, Consumer Affairs, Food & Civil Supplies (CS-I) Department, dt.17.9.2007, which envisaged a minimum of 400 BPL cards and 50 APL cards to be attached to every fair price shop in rural areas.

Respondent No.4 has filed a counter affidavit wherein he has *inter alia* sought to justify the bifurcation. It is stated in the counter affidavit that on 12.7.2010 the Mandal Food Advisory Committee meeting was held to discuss about the civil supplies oriented issues and that the Committee has resolved to bifurcate Renumakulapalli fair price shop into two and accordingly it has submitted the bifurcation proposals to the Revenue Divisional Officer, who in turn recommended the bifurcation to the Collector, Anantapur District, and accordingly the latter has issued the impugned proceedings. It is further averred that the existing shop was bifurcated for the convenience of the card holders, which is a policy decision taken in the larger interest of the card holders of Renumakulapalli Village.

In my opinion, when the State Government has issued a G.O., the subordinate officers are bound to implement the same in its letter and spirit. Paragraph-5 of G.O. Ms. No.35, dt.17.9.2007 contains the object for which the minimum number of cards for each fair price shop is prescribed. The said paragraph indicates twin objectives to be achieved, namely, the convenience of the card holders and to ensure economic viability of the fair price shops. It cannot be gainsaid unless the fair price shop is economically viable, a dealer is not expected to function honestly and if the

shop is not viable, he would invariably resort to malpractices, such as black-marketing of the essential commodities, in order to survive. Evidently, keeping this factor in mind, the Government has envisaged the minimum number of cards for each dealer. This objective cannot be thwarted by the subordinate officers by acting contrary to the norms fixed by the Government.

As noted hereinbefore, there is a drastic reduction of the number of cards by 50%. While as per the G.O. referred to above, each fair price shop must have a minimum of 400 BPL cards (white cards), the petitioner was allotted 230 cards, which are way below the prescribed minimum number. No justification whatsoever has been put forth in the counter affidavit for the so called Committee to take a decision to act contrary to the G.O. Except stating that the decision was taken in the interest of the card holders, no details have been furnished as to whether any request was made by the card holders and the Committee has considered the pros and cons of such request.

Viewed from any angle, the decision of respondent No.2 to bifurcate the existing fair price shop cannot be sustained. Accordingly, the impugned order is quashed.

The writ petition is accordingly allowed.

As a sequel to disposal of the writ petition, W.V.M.P. No.4583 of 2011 and W.P.M.P. No.24138 of 2011 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

3-6-2015

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