

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.11868 of 2011

% 30.9.2015

Between:

# Vasupalle Appanna, S/o Ramulu

**..... Petitioner**

And:

\$ The Tahsildar, Ranasthalam Mandal,  
Srikakulam District and four others.

**.....Respondents**

< Gist:

> Head Note:

! Counsel for the Petitioner: Mr. Aravala Rama Rao

^ Counsel for Respondent Nos.1 to 4: AGP for Civil Supplies (AP)

^ Counsel for Respondent No.5: None appeared

? Cases Referred:

**NIL**

*IN THE HIGH COURT OF JUDICATURE AT HYDERABAD*

*FOR THE STATE OF TELANGANA AND THE STATE OF  
ANDHRA PRADESH*

WRIT PETITION No.11868 of 2011

Between:

Vasupalle Appanna, S/o Ramulu

... Petitioner

And

The Tahsildar, Ranasthalam Mandal,  
Srikakulam District and four others.

... Respondent

**JUDGMENT PRONOUNCED ON 30.9.2015**

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

1. Whether Reporters of Local newspapers : Yes/No  
may be allowed to see the Judgment? Yes/No

2. Whether the copies of judgment may be  
marked to Law Reporters/Journals? : Yes/No

3. Whether Their Ladyship/Lordship wish to

see the fair copy of the Judgment? : Yes/No

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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**..... Petitioner**

**And:**

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Srikakulam District and four others.

**.....Respondents**

Counsel for the Petitioner: Mr. Aravala Rama Rao

Counsel for Respondent Nos.1 to 4: AGP for Civil Supplies (AP)

Counsel for Respondent No.5: None appeared

The Court made the following:

**ORDER:**

This Writ Petition is filed for a *Mandamus* to set aside order, in proceedings, vide D.Dis.No.460/2008-S2, dated 24.10.2008, of respondent No.3 and order, in proceedings, vide D.Dis.No.565/2008-S2, dated 03.03.2011, of respondent No.4.

The petitioner belongs to fishermen community. In response

to the notification issued by respondent No.2, he has applied for being considered for appointment as fair price shop dealer of Depot No.1, Jeerupalem Village, Ranasthalam Mandal, Srikakulam District. Respondent No.5 is also one such applicant. On consideration of the merits and demerits of the petitioner and respondent No.5, respondent No.3 has selected and appointed the petitioner as fair price shop dealer. Feeling aggrieved by the said order, respondent No.5 filed an appeal before respondent No.3. By order, dated 24.10.2008, respondent No.3 has allowed the appeal on the sole ground that the petitioner was a beneficiary of a scheme called Rajiv Yuva Shakthi Scheme about seven years prior to his appointment as fair price shop dealer. This order having been confirmed in revision by respondent No.4, the petitioner filed this Writ Petition.

A perusal of the order of respondent No.3 shows that during the hearing of the appeal on 23.8.2008, respondent No.5 has neither appeared nor was represented by any counsel. The same appears to be the position before respondent No.4. This fact would show that respondent No.5 was not interested in pursuing his cause. However, despite the same, respondent No.3 has allowed the appeal filed by respondent No.5 only on the ground that the petitioner was a beneficiary under a Governmental scheme. While allowing the appeal, respondent No.3 has directed that the above-mentioned fair price shop shall be de-notified.

Para-11 of the notification issued by respondent No.2, based on which the petitioner was declared ineligible by respondent No.3, envisages that as on the date of notification, the applicant must have not been benefited by Governmental schemes such as Gramodaya, Khadi and Village Industries Board Schemes. Indeed, this clause is based on Sub-clause (xvii) of Clause-12 of G.O.Ms.No.52, Consumer Affairs, Food and Civil Supplies (CS.I) Department, dated 18.12.2008, reads as under:

“The appointing authority shall verify and ensure that candidates who have already been benefited under other Government Schemes such as Gramodaya Pathakam, Khadi and Village Industries Board, etc., are not allotted F.P. Shops dealerships.”

The respondents have pleaded that the petitioner is one of the four beneficiaries under the Rajiv Yuva Shakthi Scheme, a Central Government scheme, under which they have together received about Rs.4 lakhs about seven years back. The petitioner has pleaded, and the same is not disputed, that the said amount

was paid as loan for purchase of Nylon nets and fish storage equipment and that the same was repaid with interest long back.

In my opinion, if some loan was obtained by a person belonging to a socially and economically backward community to pursue his traditional occupation, he cannot be disqualified for being appointed as fair price shop dealer long years after deriving such benefit. It would be wholly irrational if the State treats such a person as disqualified for being appointed as fair price shop dealer. Therefore, Sub-clause-(xvii) of Clause-12 of the above-mentioned said G.O. shall be construed in a manner which shall not lead to arbitrariness or irrationality. As the object behind incorporating the said Clause appears to be that a person, who is pursuing his own occupation from out of the finance provided under a Governmental scheme, cannot be allowed to compete with other unemployed persons for being appointed as fair price shop dealers. In my view, unless a person is continuing a business or carrying on an occupation based on the benefit derived under a Governmental scheme and the loans availed by him were still outstanding at the time of notification, he cannot be disqualified for being considered for appointment as fair price shop dealer.

As noted hereinbefore, the petitioner being a fisherman appeared to have obtained some loan under a Governmental scheme seven years back and after repayment of the loan, he has, evidently, discontinued the said occupation.

On these facts of the case, I am of the opinion that respondent Nos.3 and 4 have committed a serious illegality in setting aside the petitioner's appointment, more so, when respondent No.5 has not even shown interest in pursuing his appeal and contesting the revision before respondent Nos.3 and 4, respectively.

Another factor which weighed with this Court in favour of the petitioner is that on the strength of the interim order, the petitioner is being continued as fair price shop dealer for the last more than four years.

On the analysis as above, the Writ Petition is allowed.

As a sequel to disposal of the Writ Petition, WPMP.No.14522 of 2011 is disposed of as infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

*30<sup>th</sup> September 2015*

*Note:*

*LR copies to be marked.*

*B/o*

*DR*