

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.4686 of 2008

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ORDER:

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This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“To issue an appropriate writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records from the respondent No.1 by setting aside the order dated 25.2.2008 vide Case No.CS1/1249/2007 as illegal, arbitrary and unjust, consequently permit the petitioner to supply essential commodities to the cardholders of Fair Price Shop-2 of Perakondaram Village of Shaligowraram Mandal, Nalgonda District as permitted by the Joint Collector's order dated 3.9.2007 vide Case No.CS1/876/2007”.

2. Heard Sri B.Venkatadri, learned counsel for the petitioner and the learned Government Pleader for Civil Supplies appearing for respondents 1 to 3, apart from perusing the material available on record.

3. The petitioner was appointed as Fair Price Shop dealer for Shop No.2 of Perakondaram Village of Shaligowraram Mandal in the year 1994. The Revenue Divisional Officer, Nalgonda District-3rd respondent vide order dated 12.5.2007 cancelled the authorization of the petitioner herein. As against the said order of cancellation passed by the Revenue Divisional Officer, the petitioner herein filed appeal before the Joint Collector, Nalgonda District-2nd respondent herein and the Joint Collector by virtue of orders in Case No.CS1/876/2007 dated 3.9.2007 allowed the said appeal filed by the petitioner herein, setting aside the orders of cancellation passed by the Revenue Divisional Officer on 12.5.2007. As against the said order, a temporary dealer appointed in the place of petitioner herein filed a representation before the District Collector, Nalgonda district. By way of order in Case No.CS1/1249/2007 dated 25.2.2008, the District Collector allowed the said representation, setting aside the orders of the Joint Collector dated 3.9.2007. Assailing the validity of the said order passed by the District Collector, Nalgonda,

the present writ petition came to be filed.

4. This Court while issuing rule nisi on 7.3.2008 passed the following interim order in W.P.M.P.No.6083 of 2008:

“This is an application to suspend the operation of order dated 25.2.2008 issued by respondent No.1.

Heard Sri B.Venktadri, learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies and perused the record.

The petitioner, who was appointed as a fair price shop dealer, was removed by respondent No.3 and the appeal filed by him was allowed by respondent No.2. However, respondent No.1 reversed the order of respondent No.2 and directed notifying the shop afresh.

Having carefully considered the material on record, I am of the view that prima facie case and balance of convenience are in favour of the petitioner to distribute the essential commodities subject to the following conditions, pending the writ petition.

1. The petitioner shall stay at Perakondaram village of Shaligowraram Mandal, Nalgonda District and keep the fair price shop open right from the time of receipt of stocks till their distribution to the cardholders, and
2. If the official respondents find that the petitioner violates the above mentioned condition, they are at liberty to take action against her after giving appropriate notice to her”.

5. In the present writ petition, the principal contention of the learned counsel for the petitioner is that the District Collector, grossly erred in entertaining the revision filed by the 4th respondent-temporary dealer. It is also the submission of the learned counsel for the petitioner that the 4th respondent herein who was appointed as a temporary dealer has no locus-standi to maintain the revision against the orders of the Joint Collector. In support of the said contention, the learned counsel for the petitioner places reliance on the judgments of this Court in **B.Bala Seshanna v. District Collector, Kurnool District & others** and **Santhammatalli Mahialsakthi Sangham (DWCRA), Vetlapalem, Samalkonda Mandal, East Godavari District v. Government of Andhra Pradesh and others**, wherein this Court categorically held that a temporary dealer cannot maintain a revision against the orders of the Joint

Collector. This position of law is not disputed by the learned Government Pleader for Civil Supplies.

6. In view of the above reasons and following the judgments referred to supra, this writ petition is allowed, setting aside the order passed by the District Collector in Case No.CS1/1249/2007 dated 25.2.2008. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 8.4.2015

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Between:

Perumandla Lalitha
... Petitioner

and

The District Collector,
Nalgonda district & others.

... Respondents