

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.27327 of 2011

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Dated: 11.06.2015

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Between:

Doma Srinivasa Rao

.. Petitioner

And

The District Collector, Krishna at Machilipatnam

and 3 others

.. Respondents

Counsel for the Petitioner : Mr. V.H.V.R.R.Swamy

Counsel for Respondent Nos.1 to 3 : AGP for Civil Supplies (AP)

Counsel for Respondent No.4 : None appeared.

The Court made the following:

ORDER:

This writ petition is filed for a Mandamus to set aside proceedings in B1/RP/01/2011 dated 11.09.2011 of respondent No.1, whereby he has confirmed the order in proceedings S.R.A.1/2008 dated 08.12.2008 of respondent No.2.

I have heard Mr.V.H.V.R.R.Swamy, learned counsel for the petitioner, and the learned Assistant Government Pleader for Civil Supplies (A.P) appearing for respondent Nos.1 to 3. Respondent No.4 has not entered appearance, despite service of notice.

In response to the notification issued by respondent No.3, the petitioner applied for appointment as dealer of Fair Price Shop No.16 of V.Rudravaram Village, Ghantasala Mandal, Krishna District, and respondent No.4 and six others have similarly applied. By order dated 11.12.2007, respondent No.3 has found the petitioner more suitable than others and accordingly appointed him as fair price shop dealer. Respondent No.4, one of the unsuccessful applicants, has filed an appeal before respondent No.2 questioning the selection and

appointment of the petitioner. The only ground on which the petitioner's appointment was questioned was that he was a beneficiary under Rajiv Yuva Shakthi Scheme for starting a dairy and that, therefore, he was not eligible for appointment as fair price shop dealer as per sub-para (17) of para 12 of guidelines for selection and appointment of fair price shop dealers. This ground was appealed to respondent No.2 and he has accordingly set aside the petitioner's appointment and directed respondent No.3 to hold fresh interviews among those who are not disqualified for appointment and fill up the vacancy. This order was confirmed by respondent No.1 in the revision filed by the petitioner. Feeling aggrieved by both these orders, the petitioner filed this writ petition.

Having regard to the above noted facts, the following two points arise for consideration *viz.*, (1) whether the petitioner rendered himself ineligible by obtaining benefit under Rajiv Yuva Shakthi Scheme, for appointment as fair price shop dealer? and (2) whether the petitioner's appointment is liable to be set aside?

Re Point No.1:- Sub-para 17 of para 12 of the guidelines 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.”

Mr. V.H.V.R.R.Swamy, learned counsel for the petitioner, submitted that Rajiv Yuva Shakthi Scheme is not included in the above-reproduced guidelines and, therefore, the petitioner was eligible for being appointed as fair price shop dealer. Alternatively, he has submitted that his client has returned the loan amount along with the subsidy, after his selection and, therefore, the initial ineligibility, if any, has ceased with his returning the benefits.

A proper reading of the above-mentioned clause shows that the schemes mentioned therein, viz., Gramodaya Pathakam and Khadi and Village Industries Board are only illustrative and not exhaustive. The word 'etc.' indicates that both the schemes mentioned therein are cited as examples. The obvious intention behind this provision is that persons who have already derived benefit from the Government schemes shall be excluded from consideration for appointment as fair price shop dealers, so that opportunities of creating employment can be provided for others. Even though the petitioner is stated to have returned the benefit received by him, in *stricto sensu* he is not eligible for appointment. This point is accordingly answered.

Re Point No.2:- The present writ petition was admitted on 29.09.2011 and an interim order of suspension of the impugned orders was granted by this Court on the same day. The learned Assistant Government Pleader for Civil Supplies has admitted that on the strength of the interim order, the petitioner has been continuing as fair price shop dealer. As noted above, though notice was served on respondent No.4, he has not entered appearance. His non-appearance in the case shows that he is not longer interested in staking his claim for appointment as a fair price shop dealer. No other unsuccessful candidate has got himself impleaded in the writ petition. Under these facts and circumstances of the case, I find that displacement of the petitioner at this length of time would be wholly iniquitous, more so when he has already returned the benefits received by him under the above-mentioned scheme. Therefore, I feel inclined to intervene in favour of the petitioner.

For the above-mentioned reasons, the orders of respondent Nos.1 and 2 are set aside and the order of respondent No.3, appointing the petitioner as fair price shop dealer, stands confirmed.

The writ petition is accordingly allowed.

As a sequel to the allowing of the writ petition, interim order dated 29.09.2011 in WPMP.No.33723 of 2011 is vacated and WPMP.No.33723 of 2011 and WVMP.No.1393 of 2013 are disposed of as infructuous.

JUSTICE C.V. NAGARJUNA REDDY

11-06-2015

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