

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

WRIT PETITION No.8602 of 2011

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01.10.2015

Between:

Payyavula Sai Kumar

.. Petitioner

and

The Collector and District Magistrate, Guntur and others

.. Respondents

Counsel for the petitioner: Mr.K.Srinivas

Counsel for the respondents: Assistant Government Pleader
for Civil Supplies (AP)

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of respondent No.3 in issuing notification for appointment of permanent fair price shop dealer of Bhattuvaripalle Village, Karampudi Mandal, Guntur District, *vide* proceedings in Rc.No.3454/2010-B, dated 14.02.2011, as illegal and arbitrary.

The petitioner was the fair price shop dealer of Bhattuvaripalle Village, Karampudi Mandal, Guntur District. His authorization was suspended by respondent No.3 pending the enquiry into certain allegations on 20.08.2010. On 14.02.2011, respondent No.3 issued the impugned notification calling for applications for filling up the vacancy on permanent basis. Feeling aggrieved by the said notification, the petitioner filed this writ petition mainly on the ground that when the disciplinary proceedings against him were still pending, the action of respondent No.3 in issuing the impugned notification proposing to fill up the vacancy on permanent basis cannot be sustained.

Respondent No.3 filed a counter-affidavit, wherein he has, *inter alia*, stated

that an order of cancellation of the petitioner's authorization was passed on 11.11.2010 and that as the petitioner was not residing in the Village as he was employed as Wireless Operator in the office of Superintendent of Police, Guntur, by entrusting the fair price shop to his brother as *benami*, the order of cancellation could not be served on him and that the same was affixed to the door of the last known address of the petitioner.

The learned Assistant Government Pleader for Civil Supplies (AP) placed before the Court, the original record of respondent No.3, which contains the order, dated 11.11.2010, and the endorsement of the Village Revenue Officer (V.R.O.), dated 12.11.2010, made thereon stating that as the petitioner was absent in the Village as he was residing in Guntur in connection with his employment as Wireless Operator, he could not serve the order copy on him and that the same was affixed to the door of his last known address.

Mr.K.Srinivas, learned counsel for the petitioner, submitted that the respondents have come out with a false plea that an order was passed on 11.11.2010 and that from the fact that the same was not communicated to the petitioner shows that such an order was not in existence when the impugned notification was issued. I am afraid, I cannot accept this submission.

As noted above, the original order passed by respondent No.3 on 11.11.2010 is very much available on file. However, if the fact that the petitioner could not be served with the said order and the endorsement made by the V.R.O. thereon on 12.11.2010 as he was not available in the Village is disputed by the petitioner, he shall be free to avail appropriate remedy in order to question the illegality or otherwise of the order, dated 11.11.2010, cancelling the petitioner's authorization.

As the impugned notification was issued much after the cancellation of the fair price shop authorization of the petitioner, the premise on which the writ petition was filed, has turned out to be incorrect. The Writ Petition is therefore dismissed, however, with liberty to the petitioner to avail appropriate remedy if he feels

aggrieved by the aforementioned cancellation order, dated 11.11.2010.

As a sequel to dismissal of the writ petition, interim orders, dated 01.04.2011 in W.P.M.P.No.10688 of 2011 and 01.06.2015 in W.V.M.P.No.1611 of 2012 in/and W.P.M.P.No.10688 of 2011 are vacated and W.P.M.P.No.10688 of 2011 and W.V.M.P.No.1611 of 2012 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

01st October, 2015

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