

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

W.A.No.928 OF 2015

PC:

The fourth respondent in W.P.No.13349 of 2015 is the appellant. The 4th respondent in the appeal challenged proceedings ROC.B/7131/2014 dated 26.12.2014. The proceedings read thus:

"Sub: Smt. P.Lalitha, FP Shop Dealer-Tender resignation- Orders- issued restoring Dealership orders-issued FP Shop Dealer No09 of Puttur Town & Mandal, Chittoor District-Civil Supplies.

Ref:1.Smt.P.Lalitha, FP Shop Dealer Shop No.09 of Puttur Town & Mandal,
Resignation Letter Dt.21.08.2014.
2.The Report of the Tahsildar, Puttur in R.O.C.A/279/2014
Dt.22.08.2014.
3. This Officer Orders L.Dis.B/7131/2014 Dt.17.09.2014
4. W.P.No.38908/2014 of Hon'ble High Court of Andhra Pradesh, Hyderabad.

Smt.P.Lalitha, FP Shop Dealer of Shop No.09, Puttur Town & Mandal, due to personal problems she is unable to running the Shop and submitted a resignation to the Tahsildar, Puttur in Ref.No.1 cited in the reference 2nd cited above the resignation above resignation shop dealer was recommended along with the resignation of the letter of the FP Shop Dealer and accepted the same in the reference 3rd cited above and orders issued.

Smt. P.Lalitha, FP Shop Dealer filed writ petition No.38908/2014 before the Hon'ble High Court at Hyderabad as the Tahsildar influenced her for resignation and filed affidavit before the Court.

For the above reasons, the resignation of the dealer in the reference 3rd cited above were withdrawn and you are continued to work as a FP Shop Dealer and orders issued.

The Tahsildar, Puttur, directed to allot Essential Commodities to the Fair Price Shop Dealer of Smt.P.Lalitha from January,2015"

The learned Single Judge through the order impugned in the appeal set aside the proceedings dated 26.12.2014 and the relevant portion of the order reads thus:

"Learned counsel appearing for the petitioner submits that as per Clause 5 (5) of the Andhra Pradesh State Public Distribution System (Control)Order, 2008, the 2nd respondent has no power to restore the authorization once cancelled. He further submits that Clause 20 provides an appeal to the Joint Collector against the order of the Revenue Divisional Officer. Therefore, this Court is of the view that it is open for the 4th respondent to file an appeal before the Joint Collector. The order passed by the Revenue Divisional Officer is without any authority and cannot be sustained. Consequently, the order dated 26.12.2014 passed by the 2nd respondent is set aside and the Writ Petition is allowed at the stage of admission. No order as to costs."

Hence, the appeal.

Learned counsel appearing for the appellant challenges the order of the learned Single Judge on various grounds. The principal ground of challenge is that through proceedings dated 26.12.2014, some benefit is granted to the appellant and through the order impugned in the appeal the same is withdrawn and writ petition was allowed without notice to appellant. The learned counsel submits that on this short ground, the order impugned in the appeal is required to be set aside and the writ petition is directed to be posted for admission and fresh hearing before the learned Single Judge. The learned Government Pleader and also the learned counsel for the 4th respondent/writ petitioner fairly state that the order impugned in the appeal was passed at admission stage and no notice to the appellant was ordered or any opportunity was given.

Having regard to the submissions of learned counsel appearing for the parties, we are satisfied the writ appeal is disposed of in the following terms:

- i. The order dated 13.04.2015 in writ petition No.13349 of 2015 is set aside as the order was

passed without notice to appellant and the writ petition is restored to file for admission/disposal.

- ii. The appellant is given two weeks time from today to file counter affidavit and also memo of appearance in W.P. No.13349 of 2015 to avoid delay in hearing the case.

The Writ Appeal is allowed.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date:14.10.2015
stp