

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

WRIT PETITION No.18891 of 2011

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14.10.2015

Between:

Satyavarapu Lakshman

.. Petitioner

and

The District Collector, Visakhapatnam and another

.. Respondents

Counsel for the petitioner: Mr.B.Devanand

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 set aside proceedings in Rc.No.374/2007/CSR7, dated 31.01.2009, of respondent No.1, whereby he has bifurcated the fair price shop of Mogalipuram Village, Sabbavaram Mandal, Visakhapatnam District.

The main ground on which the petitioner, who is the fair shop dealer of Mogalipuram Village, has assailed the impugned proceedings is that before his shop was bifurcated, no notice was issued to him. Another ground raised by him in order to assail the validity of the impugned proceedings is that the bifurcation will result in his shop becoming unviable.

In the counter-affidavit filed by respondent No.2, it is, *inter alia*, stated that the bifurcation proceedings were issued strictly in accordance with G.O.Ms.No.35, dated 17.09.2007, which envisaged rationalization of the existing fair price shops. It is further stated that as per the said G.O., each fair price shop has to be attached at least 400 to 450 BPL cards and 50 pink cards and that in the instant case, the respondents have ensured that the minimum number of cards prescribed under the said G.O. are allotted to both the shops.

A perusal of G.O.Ms.No.35, dated 17.09.2007, shows that it does not envisage prior notice to the existing dealer. Whether the principles of natural justice shall be read into this G.O. or not is a moot question, which need not be answered in the present case for the simple reason that no purpose would have been served even if notice was issued because, as against 400 to 450 BPL cards, which are prescribed for each shop under the said G.O., 579 cards are attached to the petitioner's fair price shop after bifurcation. Therefore, it would

have been an useless formality even if notice was given to the petitioner. As regards the plea of viability, under the abovementioned G.O., a shop is considered as viable if a minimum of 500 cards are allotted to it. As the petitioner is allotted 579 cards, his plea that the bifurcation will affect the viability of his shop is without any merit.

For the aforementioned reasons, the Writ Petition fails and the same is accordingly dismissed.

As a sequel to dismissal of the writ petition, interim order, dated 08.07.2011, in W.P.M.P.No.22812 of 2011 is vacated and W.P.M.P.No.22812 of 2011 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

14th October, 2015
GHN