

**THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

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**WRIT PETITION No.12337 of 2015**

**ORDER:**

Heard the learned counsel for the petitioner, learned Government Pleader for the respondents 1 to 3 and learned counsel for the fourth respondent.

The father of fourth respondent was a Fair Price Shop dealer. He expired on 21.09.2011. In respect of the said vacancy a notification was issued on 14.11.2011 for appointment of Fair Price Shop dealer on permanent basis. The petitioner as well as the fourth respondent applied for the same. The petitioner was selected as a Fair Price Shop dealer. After appointment of the petitioner, the fourth respondent approached the third respondent and claimed his appointment on compassionate grounds, but the third respondent rejected the claim of fourth respondent by order dated 08.11.2012 and appointed the petitioner by proceedings dated 06.12.2012. Challenging the orders of the third respondent, the fourth respondent preferred an appeal to the Joint Collector, Mahabubnagar, who remanded the matter to the Revenue Divisional Officer, Mahabubnagar, for fresh enquiry. After remand, the third respondent passed an order on 16.04.2015 appointing the fourth respondent on compassionate grounds. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner submits that the fourth respondent did not apply for appointment on compassionate grounds and only when the petitioner was appointed pursuant to the notification and after due selection, the fourth respondent wanted consideration of his case on compassionate grounds.

Learned counsel for the fourth respondent submits that an application for appointment on compassionate grounds was made on 29.09.2011 and ignoring the same the notification was issued.

Learned counsel for the petitioner relies on the earlier proceedings of the third respondent dated 08.11.2012 and submits that there was no application of the fourth respondent till issuance of notification on 14.11.2011. The application was filed only after issuance of notification on 14.11.2011.

Be that as it may, after remand of the matter by the Joint Collector, Mahabubnagar District, the third respondent passed the impugned order on 16.04.2015 without issuing any notice to the petitioner when the petitioner was duly appointed pursuant to notification. The impugned order shows that the application of the fourth respondent dated 28.11.2011 is available on record and it should have been considered before issuing the appointment orders in favour of the petitioner on 12.12.2014. When the petitioner was duly appointed by following the due process, he is entitled for a notice.

In the above circumstances, the impugned order dated 16.04.2015 is set aside, and the matter is remanded to the third respondent for consideration of the case of the fourth respondent as well as that of the petitioner in accordance with law and pass appropriate orders thereon within a period of thirty (30) days from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

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**A.RAMALINGESWARA RAO, J**

07.10.2015

MVA

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