

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No.1049 of 2015

Dt:09.12.2015

Between:

S.Rami Reddy.

... Appellant

And

The State of Andhra Pradesh and others.

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

WRIT APPEAL No. 1049 of 2015

PC: (per the Hon'ble Sri Justice S.V.Bhatt)

Heard Sri V.R.Reddy Kovvuri, learned counsel for the appellant and the learned Government Pleader for Civil Supplies for the respondents.

The appeal is directed against the order, dated 13.10.2015, in W.P.No.28009 of 2015. The unsuccessful petitioner is the appellant. In the writ petition, the appellant prayed for the following relief:

“The High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of respondent No.4 in refusing to allot the essential commodities to the petitioner's Fair Price Shop No.28, Maduru Village, Chapadu Mandal, Y.S.R.District stating that alternative arrangements are made during pendency of W.P.No.8825 of 2015 even though, the order of cancellation passed by respondent No.3 was suspended by this Hon'ble Court vide order, dated 23.06.2015 as arbitrary, illegal, colourable exercise of power, contrary to the provisions of the Andhra Pradesh State Public Distribution System (Control) Order, 2008 and also the well settled legal principles, apart from being violative of the fundamental rights guaranteed to the petitioner under Articles 14, 19 and 21 of the Constitution of India and consequently direct respondent No.4 to release the essential commodities to the petitioner's Fair Price Shop No.28, Maduru Village, Chapadu Mandal, Y.S.R.District.”

To appreciate the contention of the learned counsel appearing

for the appellant, we refer to the order, dated 23.06.2015, passed by this Court in W.P.No.8825 of 2015, which reads thus:

“The Writ Petition is, accordingly, disposed of giving liberty to the petitioner to file an appeal against the impugned proceedings dated 19.02.2015 within fifteen (15) days from the date of receipt of a copy of this order. By virtue of the earlier order dated 26.09.2014 in W.P.No.28902 of 2014, the order of suspension shall continue till the disposal of the appeal if the petitioner is continuing as on today. If the petitioner does not file appeal within fifteen (15) days, the proceedings dated 19.02.2015 shall come into effect without any further orders. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.”

Now the grievance of the appellant is that he has availed the remedy of appeal within the time given by this Court vide order, dated 23.06.2015 and on account of the appellant availing the remedy of appeal, it shall be deemed that the suspension granted in favour of the appellant shall be in operation and there ought not to be any alternative arrangement for distribution of essential commodities through Shop No.28, Maduru Village, Chapadu Mandal, Y.S.R.District.

Learned counsel for the appellant has substantially reiterated the contentions urged before the learned Single Judge. The order, dated 23.06.2015, grants conditional suspension of proceedings, dated 19.02.2015, if the appellant is continuing to supply essential commodities as on that date. Now, the reason for refusing relief to the appellant is that the Department through proceedings, dated 04.05.2015, has made alternative arrangement by appointing one Sravani to distribute essential commodities through Shop No.28 of Maduru Village. It is not the case of appellant that Sravani was appointed through proceedings, dated 04.05.2015. Therefore, the appellant, as rightly observed by the learned Judge, cannot presume suspension of proceedings, dated 19.02.2015, to claim supply of

essential commodities through Shop No.28, Maduru Village.

We have perused the material available on record and having regard to the condition with which suspension was granted, we see no illegality or irregularity in the order impugned.

The writ appeal fails and is accordingly dismissed. The appellate authority is directed to dispose of the appeal filed by appellant against proceedings, dated 19.02.2015, as expeditiously as possible and preferably within a period of three months from the date of receipt of copy of this order.

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

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

Dt:09.12.2015
kdl

