

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.4471 of 2015

ORDER:

Heard the learned Counsel for the petitioner, learned Government Pleader for respondent Nos.1 to 4 and the learned Counsel appearing for respondent No.5.

The petitioner states that he is a permanent resident of Seegipalli Village of Anantapur District and he was appointed as a fair price shop dealer on temporary basis in respect of shop No.16 of Seegipalli Village, Parigi Mandal in Anantapur District. When the stock of essential commodities was not released to the petitioner, he filed W.P.No.17817 of 2014, and the same was disposed of on 10.07.2014 directing the respondents therein to release the essential commodities to the petitioner for distribution to the cardholders. While so, the third respondent issued a notification calling for applications from the eligible candidates for appointment as fair price shop dealer of Seegipalli Village on permanent basis vide notification dated 01.01.2015. The petitioner along with four other candidates including the fifth respondent applied for dealership. A written examination was conducted, and the petitioner secured 61 marks, whereas the fifth respondent secured 53 marks. When the fifth respondent was appointed by proceedings of the third respondent dated 20.01.2015, the present Writ Petition was filed challenging the said order of appointment.

A counter affidavit is filed on behalf of respondent Nos.1 to 4 admitting the issuance of notification, the application of the petitioner and the fifth respondent along with other candidates. The allegation that the fifth respondent is not the native of Seegipalli Village was denied and the order of appointment was justified. It was also stated that the petitioner secured 73 marks, whereas the fifth respondent secured 75 marks.

A separate counter affidavit is filed by the fifth respondent stating that

the fifth respondent is a permanent resident of Seegipalli Village, Anantapur District, and it is specifically stated that the Aadhar card as well as ration card contain the address of Seegipalli Village.

I called for the record in view of the allegation made by the petitioner that the fifth respondent secured only 53 marks in the written examination, and since the marks earmarked in the interview are 20 marks, she cannot get 75 marks. The record produced before me showed that, in the written examination the petitioner secured 61 marks out of 80 marks, whereas the fifth respondent secured 57 marks out of 80 marks. In the interview, the petitioner was given 12 out of 20 marks, whereas the fifth respondent was given 18 out of 20 marks. Thus, the fifth respondent was selected. Both the candidates belong to Backward Class community. Though the said shop was notified under OC category, in view of the marks secured by them, the fifth respondent was appointed.

The Mandal Revenue Inspector in his verification report stated that, though the petitioner is a native of Seegipalli Village, as on the date of enquiry, he is not residing in that Village, but he is residing at Hindupur and running cell phones repair shop at Hindupur. However the Petitioner was not denied dealership on this ground and it is not necessary to record a finding on this aspect.

This Court, by order dated 26.02.2015, directed the respondents to permit the petitioner, who was the temporary dealer, to distribute the essential commodities. The petitioner is continuing as a temporary dealer as on the date of appointment of the fifth respondent.

But, in view of the marks secured/awarded to the petitioner and the fifth respondent at the time of written test and interview, the appointment of the fifth respondent cannot be interfered. The Writ Petition is liable to be dismissed and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall

stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

22.06.2015

Note: LR copy to be marked: No

B/o.

vs