

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.1546 of 2012

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Between:

S. Shameer Basha

PETITIONER

AND

1. The District Collector, Anantapur, Anantapur District, and others.

RESPONDENTS

ORDER:

Heard Sri K. Srinivas, learned counsel for the petitioner and Sri K.S. Narasimha Reddy learned counsel appearing on behalf of Sri Srinivas Basava learned counsel for the 4th respondent.

The petitioner challenges the proceedings dated 17.01.2012 of the 1st

respondent in bifurcating the petitioner's Fair price shop No.1 of O.D. Cheruvu village and Mandal, Anantapur District, as illegal, arbitrary and in violation of the norms prescribed under G.O.Ms.No.35 dated 17.09.2007.

The case of the petitioner is that he was appointed as fair price shop dealer of Shop No.1 of O.D. Cheruvu Village and Mandal, Anantapur District, on permanent basis in the year 1983. Basing on the report of the 3rd respondent dated 23.01.2011, the 2nd respondent submitted proposals to the 1st respondent for sanction of additional F.P. Shop No.3 at O.D. Cheruvu village duly bifurcating existing Shop.No.1. The grievance of the petitioner is that without giving any opportunity or any notice to him the 1st respondent simply bifurcated his shop into two shops in violation of the norms prescribed under G.O.Ms.No.35 dated 17.09.2007. Hence the petitioner filed the present writ petition.

While admitting the writ petition this Court, vide order dated 24.01.2012, granted interim suspension of the impugned order. Thereafter, the 4th respondent was impleaded vide order dated 26.09.2012 passed in W.P.M.P.No.5595 of 2012.

The respondents filed vacate application in W.V.M.P.No.2657 of 2012, which was dismissed on 13.03.2013 while making the interim order dated 24.01.2012 absolute.

The case of the 4th respondent is that he is one of the cardholders under F.P. Shop No.1 of O.D. Cheruvu Village. His submission was that in case bifurcation order dated 17.01.2012 is implemented, his case may be considered for issuance of fair price shop authorization.

Learned counsel for the petitioner submits that in G.O.Ms.No.35 dated 17.09.2007 the areas have been divided as Rural, Urban and Corporations. O.D. Cheruvu has been described as Village and Mandal. He also submitted that as per the said G.O., in the Municipalities and Taluk Head Quarters the number of Iris based ration cards to be attached to each fair price shop are 500 to 550 BPL and 250 pink cards, and hence the 1st respondent violated the said Governmental Order.

As per G.O Ms.No.35 dated 17.09.2007 the areas have been divided as Rural, Urban and Corporations. As per Clause-5 of the G.O., the number of Iris based ration cards to be attached to each fair price shop are – in Rural areas, 400 to

450 BPL and 50 pink cards; in Urban areas, 500 to 550 BPL and 250 Pink cards in Municipalities and erstwhile Taluk Headquarters; and in Corporations 600 to 650 BPL cards and 400 pink cards.

Clause-6 of G.O.Ms.No.35, dated 17.09.2007, to the extent relevant, reads as under:

- i. xxxxxxxxxxxxxxxx
- ii. Opening of a fair price shop within one kilometer radius of the residence of the card holder shall be scrupulously followed.
- iii. In Municipalities/erstwhile taluk head quarters (urban), each fair price shop should have a minimum of 500 BPL cards.
- iv. In Mandal head quarters each fair price shop should have a minimum of 500 BPL cards and 250 pink cards. Keeping in view the guidelines already issued, new fair price shops can be opened basing on the need.
- v. xxxxxxxxxxxxxxxx

Admittedly, after bifurcation of petitioners shop, there are 423 cards in Shop No.1 and the proposed new shop will get 379 cards. In other words, after bifurcation there would be a shortage of 77 cards for the petitioner. Even as per Clauses-5(b) of the above G.O in Taluk/Mandal Head Quarters each fair price shop should have a minimum of 500 to 550 BPL cards and 250 pink cards. Because of bifurcation, the petitioner would be left with only 420 cards, which is contrary to the norms in G.O.Ms.No.35, dated 17.09.2007. In that view of the matter, the impugned order cannot be sustained and the same is liable to be set aside.

Accordingly, the writ petition is allowed setting aside the impugned order dated 17.01.2012. However, considering the fact that three years have elapsed from the date of passing of the impugned order, and there being the possibility of increase in cards in view of beneficiaries claiming the essential commodities under the public distribution system, the respondent authorities are at liberty to take steps for appointing another fair price shop dealer by strictly following the relevant guidelines prescribed under the Governmental Orders issued from time to time. In so far as the 4th respondent is concerned, as he does not have any subsisting interest as on the date of filing of writ petition, no relief can be granted to him in this writ petition.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. No

order as to costs.

CHALLA KODANDA RAM, J.

20th November, 2015

Js.