

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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W.P.No.1400 of 2013

Between:

N.Shaik Mohiddin

.. Petitioner

and

The Joint Collector, Kurnool and two others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 28.7.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No

marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to Yes/No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.1400 of 2013

ORDER:

The petitioner was appointed as Fair Price Shop dealer of Shop No.12, Ward No.9, Kosigi Village and Mandal, Kurnool District. The total ration cards attached to his fair price shop are about 700, but only 620 cards are in existence and the remaining are defunct. It appears that on a proposal submitted by respondent No.2, respondent No.1 took out 334 cards out of 700 cards and ordered for bifurcation of the existing shop No.12 and created a new shop in respect of 9th Ward of Kosigi Village. The said proceedings, dated 29.11.2012, issued by respondent No.1 are challenged in the present writ petition.

2. A counter-affidavit is filed on behalf of the respondents stating that some of the cardholders have submitted a representation seeking bifurcation of the shop into two as they are facing much inconvenience to get essential commodities, as the shop is situated at a distance of 1 ½ km. and is overcrowded. The matter was enquired by the Mandal Revenue Inspector-I, Kosigi Mandal and on the basis of his report, a decision was taken for bifurcating the shop. Accordingly, the Joint Collector, Kurnool issued orders on 29.11.2012 bifurcating the shop. Though the orders were issued making interim arrangements, the same were cancelled on 22.1.2013 in view of the directions in this writ petition. It is submitted that the petitioner had an alternative remedy of appeal.

3. Learned counsel for the petitioner submitted that the bifurcation of the shop of the

petitioner is contrary to the provisions in G.O.Ms.No.35, Consumer Affairs Food & Civil Supplies (CS-I) Department, dated 17.9.2007. He drew the attention of this Court to para No.6(v) of the said G.O. wherein it is held as under:

“Rural areas – Each Gram Panchayat (v) should have at least one F.P.Shop with a minimum of 400 BPL cards and 50 APL cards. In case, there are more number of cards in excess of the minimum number of cards i.e. 400 BPL and 50 APL in a village there can be two FP Shops provided the total number of BPL cards in that village is not less than 600 and the number of BPL cards should be attached to the two Fair Price Shops equally.”

In the present case, the case of the petitioner is that though 700 cards were allotted to his shop, only 620 cards are in existence and by virtue of the bifurcation, only 336 cards were allotted by taking out 334 cards from his shop. Though the above provision in G.O.Ms.No.35, dated 17.9.2007, enables the authorities to create two shops, as only 620 valid cards are existing in respect of the petitioner's shop, the action taken by respondent No.1 is not valid. Though the averments relating to the actual number of cards were denied in the counter-affidavit, as the shop of the petitioner is having only 700 cards, it would not make the shop viable. In the circumstances, the impugned order, dated 29.11.2012, passed by respondent No.1 is set aside. However, it is open to respondent No.1 to review the situation if there is any increase in the number of cards at a later point of time.

4. The Writ Petition is allowed to the extent indicated above. There shall be no order as to costs. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

Date: 28.7.2015

AMD

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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