

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

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WRIT PETITION No.13763 of 2015

Between:

Seelam Ganga Raju.

....Petitioner

and

The State of Andhra Pradesh,
Rep.by its Ex-Officio Secretary to the Govt.,
Consumer Affairs,
Food & Civil Supplies (CS-I) Dept.,
Secretariat, Hyderabad,
And others.

....Respondents

DATE OF JUDGMENT PRONOUNCED: 25.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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|----|---|--------|
| 1. | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be
Marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether His Lordship wishes to
see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.13763 of 2015

ORDER:

This order is being passed after hearing the learned Counsel for the petitioner, learned Government Pleader and the learned Counsel for the sixth respondent, after remand from the Division Bench in W.A.No.559 of 2015, dated 07.07.2015.

The writ petitioner is a fair price shop dealer and the authorization of the petitioner was cancelled for his participation in political activity.

On the earlier occasion, this Court passed the following order on 08.06.2015:

“Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents.

The petitioner is a fair price shop dealer of shop No.14, Ramachandrapuram Town, East Godavari District, and his authorization was renewed up to 31.03.2013. While so, a show cause notice was issued to him on 21.08.2012 by the fourth respondent calling for objections within seven days on the charges mentioned therein. The said notice was issued on the basis of the report of the fifth respondent dated 07.08.2012. The petitioner submitted his explanation. On consideration of the explanation submitted by the petitioner, his authorization was cancelled by proceedings dated 18.09.2012 on the ground that he violated the instructions contained in G.O.Ms.No.65, dated 15.12.2009. Against the said order, the petitioner preferred an appeal before the third respondent, who passed an order on 17.06.2013 allowing the appeal and directed the fourth respondent to restore the authorization. Accordingly, the fourth respondent passed orders on 28.06.2013 restoring the dealership and directed the petitioner to remit the renewal fee. The petitioner remitted the fee for renewal of authorization. But, the fifth respondent did not supply the goods, even though the petitioner paid the requisite fee. It appears that, challenging the orders of the third respondent, the sixth respondent filed a revision before the second respondent, who rejected the revision filed by the sixth respondent by order dated 01.08.2013 holding that it was not maintainable. The sixth respondent filed a revision before the first respondent and the same was allowed without notice to the petitioner. Challenging the same, the petitioner filed W.P.No.25348 of 2013, and the same was disposed of on 22.01.2014 directing the second respondent to pass orders in the revision filed by the sixth respondent and setting aside the order of the first respondent dated 13.08.2013. Ultimately, the second respondent passed orders on 25.03.2015 allowing the revision filed by the sixth respondent holding as follows:

“In the light of material/records available, the Court observed that:

- i) As per the APPDS (Control) Order, 2008, the Authorised Dealer of FP Shop has to follow the guidelines issued by the Government from time to time and he should act only as per the conditions of the Authorisation.

In this case, the dealer has failed to maintain proper accounts/scheduled timings and also committed certain irregularities in distribution of Essential Commodities to the card holders. The Appointing Authority and Revenue Divisional Officer, Rajahmundry has conducted detailed enquiry on the charges framed against him apart from his participation of canvassing to one political party. All the charges are held proved. The Authorised dealer has failed to act as dealer in distribution of Essential Commodities to the card holders.

Very specifically as per G.O.Ms.No.65, Consumer Affairs, Food and Civil Supplies (CS.I) Department, dated 15.02.2009 under clause – 17 (c) – Taking part in political Activities: - No Fair Price Shop Dealer/Nominated Retailer/Hawker shall take part in any political activity directly or indirectly in any General/Municipal/Panchayat Raj elections, hampering the Public Distribution System and the Authorisation granted to him/her under the Order shall be cancelled, if he/she is found involved in such political activity/canvassing.

- ii) Further, on perusal of the Order of Appellate Authority and Joint Collector, East Godavari District, Kakinada, he also agreed that Sri Seelam Gangaraju, FP Shop Dealer No.14 of Ramachandrapuram Town is committed irregularities apart from participation in canvassing of one Political Party during the Bye-Elections to Ramachandrapuram Assembly Constituency.

However, the Appellate Authority had let off the Respondent with a advise not to participate in political activities in future. The order passed by the Appellate Authority is not in accordance with rules and regulations of F.P.Shop dealers.

In view of the above, I do not see any reason to interfere with the orders of the Appointing Authority and the orders passed duly conducting detailed enquiry with all the charges. Therefore, the Revision Petition is allowed and I, hereby order for uphold the proceedings in Ref.E/5888/2012, dated 18.09.2012 of the then Revenue Divisional Officer, Rajahmundry wherein the Authorisation of Sri Seelam Gangaraju, FP Shop Dealer No.14, Ramachandrapuram Town and Mandal was cancelled. Accordingly, the Revision Petition is disposed.”

Challenging the same, the present Writ Petition is filed.

A perusal of the above order shows that the main ground alleged against the petitioner is that he participated in elections and canvassed for a political party during bye-elections to Ramachandrapuram Assembly Constituency. It is stated that the said activity of the petitioner is contrary to the instructions in G.O.Ms.No.65, dated 15.12.2009, more particularly, paragraph 17(c) thereof. Para 17(c) of the said Government Order reads as follows:

“17 (c) – Taking part in political Activities:- No Fair Price Shop Dealer/Nominated Retailer/Hawker shall take part in any political activity directly or indirectly in any General/Municipal/Panchayat Raj elections, hampering the Public Distribution System and the Authorisation granted to him/her under the Order shall be cancelled, if he/she is found involved in such political activity/canvassing.”

A total reading of the above paragraph makes it clear that participation of the dealer in political activity is not prohibited, but such participation should not hamper the public distribution system, and if it hampers, the competent authority is entitled to cancel the authorisation. In the instant case, there is no finding recorded by the fourth respondent as well as by the second respondent that the

political activity of the petitioner hampered the distribution of essential commodities. The primary authority, the fourth respondent, levelled as many as five allegations and allegation No.3 deals with the participation of the petitioner in political activity. The Joint Collector allowed the appeal preferred by the petitioner and passed order on 17.06.2013 warning the petitioner not to participate in any political activity/canvassing in future. The cardholder – sixth respondent herein, filed a revision before the District Collector challenging the orders of the third respondent. Though initially he did not entertain the revision preferred by the cardholder, on the instructions of the Government in Memo No.4102/CS-1(1)/2013-1, dated 13.08.2013, the District Collector entertained the revision, and passed the impugned order as aforesaid. No finding was recorded with regard to the participation of the petitioner and its effect on public distribution system as stated above.

It is needless to say that every citizen in the country is entitled to participate in political activity, subject to the law applicable to him. In the instant case, G.O.Ms.No.65, dated 15.12.2009, is applicable to the petitioner. As stated above, a holistic reading of paragraph 17(c) does not indicate an absolute bar of the dealer in participating in political activity. The authorities are competent to take action against the petitioner only if the public distribution system is hampered. From the orders passed by the second respondent as well as the fourth respondent, I do not see any finding affecting the public distribution system by the political activities of the petitioner herein.

In the circumstances, the Writ Petition is allowed by setting aside the order of the second respondent confirming the order of the fourth respondent. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.”

After remand, the learned Counsel for the sixth respondent submits that the sixth respondent is a cardholder and though five charges were leveled against the petitioner, only one charge was dealt with by all the authorities and, had the authorities considered the other charges also, the order of cancellation of authorization could be sustained.

I have carefully perused the orders passed by respondent Nos.2 to 5 and all the authorities have dealt with only one aspect of political participation and when they have not dealt with other matters, it is not proper for this Court to enquire into the other allegations. Further, the sixth respondent is only a cardholder and the proceedings were not taken at the instance of the sixth respondent. But, the sixth respondent

filed a revision, when the third respondent – Joint Collector, passed an order in favour of the petitioner.

Learned Counsel for the sixth respondent relied on **M.Vanaja v. B.Balaseshanna**^[1] in order to claim *locus standi* as a “person aggrieved” occurring in clauses 20 and 21 of the Control Order.

The observation made by the Full Bench in the aforesaid decision in paragraph 26 referring cardholder is a casual observation and the facts of the case should be seen. Suppose, if disciplinary proceedings are taken against the dealer at the instance of the cardholder, in those circumstances, the cardholder can be termed as a “person aggrieved”. But, when the proceedings were not taken at the instance of the cardholder, it cannot be termed as “the cardholder is a person aggrieved”. The cardholder is interested in receiving the essential commodities, but not in continuance or otherwise of the fair price shop dealer. If the cardholder is pursuing the remedies available to a rival temporary dealer, it creates doubt in the mind of the Court whether the poor cardholder can pursue the legal remedies by spending money for cancellation of the dealership of the fair price shop dealer. However, this matter has to be considered in an appropriate case. But, in this case, in view of the authorities deciding the case of the petitioner only on the point of political participation, the order passed by the second respondent suffers from an error apparent on the face of the record, and the same is, accordingly, set aside by the same reasoning contained in the order dated 08.06.2015.

The Writ Petition is, accordingly, allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

25.08.2015

VS

[\[1\]](#) 2008 (1) ALT 520 (FB)