

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.22447 of 2012

DATE: 05.11.2015

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Between:

N. Rajender

PETITIONER

AND

1. The District Collector (CS), Nizamabad District, Nizamabad, and others.

RESPONDENTS

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.22447 of 2012

ORDER:

This writ petition is filed for the following relief –

“...to issue an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ order or direction declaring the action of the respondent No.1 in passing the order in R.P.No. CS6/196/2012 , dated. 11-6-2012, confirming the order passed by the respondent no.2 in case No. CS6/83/2012, dated. 16-3-2012, canceling the fair price shop authorization of the petitioner fair price shop No. 24 of Mendora village of Bheemgal Mandal, Nizamabad District, in pursuance of the same issuance of the order by the respondent no.3 in procs No. 63/1982/2012-1, dated. 29-3-2012 directing the respondent no.5 to take consequential action in the matter, without looking into the material place by the petitioner and without looking into the records of their own and without conducting any enquiry and without giving any opportunity of hearing to the petitioner is nothing but arbitrary, illegal, null and void. and violative of principles of natural justice and also violative of Articles 14, 19 and 21 of the constitution of India and to pass...”

The case of the petitioner is that he has been appointed as fair price shop dealer of Shop No.24 of Mendora Village of Bheemgal Mandal, Nizamabad District in the year 1990. While so, on a complaint made by the 4th respondent, the 2nd respondent-Joint Collector, Nizamabad treating the said complaint as appeal, issued show cause notice to the petitioner. The only allegation leveled against the petitioner is that he is not running the fair price shop and entrusted the same to third parties. The petitioner submitted a detailed explanation categorically stating that on account of his ill health his wife and father are attending to the day to day work in the fair price shop and diligently distributing the commodities to the villagers. But without considering the said explanation, the 2nd respondent passed orders dated 16.03.2012 cancelling the authorization of the petitioner. Aggrieved by the same, the petitioner preferred a revision before the 1st respondent, who vide order dated 11.06.2012 confirmed the order of the 2nd respondent. Aggrieved by the same, the petitioner filed the present writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies for respondents 1 to 3 and 5. Notice sent to the 4th respondent is not yet returned served.

This Court on 24.07.2012 while admitting the writ petition granted interim stay of all further proceedings in pursuance of the order dated 16.03.2012 of the 2nd respondent as confirmed by order dated 11.06.2012 of the 1st respondent.

As seen from the material available on record, except the allegation that the petitioner is not running the fair price shop and the same was entrusted to third parties, there is no other allegation or any infraction of the Control Order or the Licensing conditions are made. The Joint Collector in a mechanical manner passed the impugned order, which reads as under.

“I have examined the appeal filed by appellant and also perused the records. On 28.01.2012, the respondent No.2 Smt. B. Sharda has appeared before the Court but did not filed any explanation, evidence showing that she is not related to respondent No.3 & 4 in any manner. The 3rd respondent Smt. D. Sujatha, Dealer FPS No.16, Pipri (V) Bheemgal (M) has tendered her resignation after initiation of this appeal and neither appeared before the court nor submitted any explanation to the notice. The 4th respondent No. Rajender has not appeared before the court and on his behalf his wife Smt. Swarupa has appeared and neither filed any explanation, evidence showing that they are not related to respondent Nos.2 and 3 in any manner. Thus it is proved that the respondent No.2 to 4 are related to one another and managed to obtain the dealer ship in the names of their family members and when this appeal is initiated the 3rd respondent has voluntarily resigned from the dealership and the resignation of the 3rd respondent gives an indication that they are relatives.

In the result, I find that the respondent No.2 to 4 are related to one another and obtain the dealership by concealing facts that they are relatives and misguided the officials and secured the dealership. The appointment of the FPS dealership of respondent Nos.2 and 4 are void and the authorizations issued vide re.No.B3/6362/95 & B3/7912/90 respectively is set aside. The Revenue Divisional Officer, Nizamabad is directed to cancel the authorization of respondent Nos.2 and 4 and appoint new dealers inviting fresh applications from the eligible candidates as per norms.”

A perusal of the order passed by the 2nd respondent would reveal the method and manner in which he proceeded to deal with the allegations and the explanation submitted by the petitioner. Even assuming that respondents 2 to 4 in the appeal are related, in as much as individual shops have been allotted to the respective parties and in the absence of any prohibition that the relatives cannot be allotted fair price shop dealership, the reasons stated for cancellation of fair price shop licence of the petitioner is unsustainable. The 1st respondent also mechanically had affirmed the order of the 2nd respondent simply extracting the order. In that view of the matter, the order passed by the 2nd respondent-Joint Collector as confirmed by the 1st respondent-District Collector, is quashed.

Accordingly, the writ petition is allowed. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

5th November, 2015

Js.