

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM
WRIT PETITION No.10033 OF 2016

ORDER:

The case of the petitioner, as per affidavit averments of the petitioner, is that he was appointed as permanent Fair Price Shop dealer in respect of F.P. Shop situated at Mogalrajpuram, Vijayawada. While so, on 12.01.2015 the Assistant Supply Officer, Circle-II, Vijayawada, inspected his shop and after conducting panchanama, seized the stocks and filed a report before the 3rd respondent on 17.02.2015. Based on said report, a show cause notice was issued to him alleging diversion of 72 kgs. of PDS rice. Pursuant to the same, on 18.02.2015 petitioner submitted his explanation. Further, in view of the orders of this Court in W.P.No.27682 of 2015 dated 09.07.2015, petitioner is running the Fair Price Shop. When things stood thus, the 3rd respondent issued proceedings in Rc.No.A7/141/2015 dated 24.11.2015 canceling the authorization of the petitioner on the ground of old age of the petitioner. Thereafter, on 28.12.2015 petitioner filed an appeal before the 2nd respondent along with stay petition. Since the 2nd respondent was not passing orders either in appeal or stay petition, petitioner filed the present writ petition.

Learned counsel for the petitioner contended that the 2nd respondent, who is appellate authority, is not taking up the appeal filed by the petitioner or atleast the stay petition. In support of his submission, learned counsel for the petitioner relied on a judgment of this Court in **Anab-E-Shahi Wines and another vs. Deputy Commissioner**^[1] wherein this Court had taken a view that it would be unreasonable if stay is not granted when the appeal is pending before the lower authorities.

On the other hand, learned Government Pleader for Civil

Supplies contended that the Division Bench of this Court vide judgment dated 30.10.2014 in W.A.No.1346 of 2014 had interfered with the order dated 26.09.2014 of the learned single Judge in W.P.No.29209 of 2014 granting stay while disposing of the writ petition. He also relied on judgment dated 14.05.2015 of another Division Bench in W.A.No.382 of 2015.

In above two writ appeals cited by the learned Government Pleader **Anab-E-Shahi Wines** case (1 supra) was not cited. Apart from that, the judgment in Writ Appeal No.1346 of 2014 is not applicable to the present set of facts for the reason that this Court had directed the appellate authority to dispose of the appeal and not stay application because the order cited, which is applicable for refusing to stay, itself is a non speaking order and no useful purpose would be served once again directing the appellate authority to make a reasoned order except to multiply the litigation.

In that view of the matter, this Court deems it appropriate to direct the appellate authority to dispose of the appeal as expeditiously as possible, since the subject matter of the appeal before the appellate authority, who is the Joint Collector, is only cancellation of fair price shop dealership authorization. However, in the interregnum period to prevent appointment of any third party as fair price shop dealer, interest of justice would be served in granting stay of the order of the lower authorities.

Accordingly, the writ petition is disposed of directing the 2nd respondent-Joint Collector to dispose of the appeal itself in a time bound manner. As the right of appeal being a statutory right and in view of the judgment of this Court in **Anab-E-Shahi Wines** case (1 supra) I deem it appropriate to grant stay of the order of the 3rd respondent-Sub-Collector, Vijayawada, pending disposal of the

appeal or stay petition whichever is earlier by the 2nd respondent. The 2nd respondent shall dispose of the appeal, stated to have filed on 28.12.2015 by the petitioner, within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous petitions pending in the writ petition, if any, shall stand closed.

Challa Kodanda Ram, J

29th March, 2016.

sur

[\[1\]](#) (1995) 98 STC 386 (AP)