

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19920 of 2016

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ORDER:

The appointment order dated 17.04.2016 issued in favour of the 5th respondent is challenged before this Court.

Heard Sri G.Rajesham, learned counsel for the petitioner, as well as the learned Government Pleader for Civil Supplies.

Learned counsel for the petitioner submits that the 5th respondent is ineligible to be appointed as a fair price shop dealer in terms of G.O.Ms.No.4 dated 28.02.2014 as 5th respondent is employed in a Software Company and the said fact has been confirmed in an enquiry conducted by the revenue officials. Apart from that, it is also the contention of the petitioner that in terms of G.O.Ms.No.4 particularly clause 6 (vii) 'if a person is to be appointed as a fair price shop dealer on compassionate ground, the respondent authorities shall ensure that there are no other earning member in the deceased fair price shop dealer's family'. It is the further contention of the learned counsel for the petitioner that bringing this aspect to the notice of the 2nd respondent, petitioner made a complaint setting out all the details and the 2nd respondent, in turn, directed the Revenue Divisional Officer to enquire into the matter and take necessary action. The 3rd respondent being the Subordinate Officer to the 2nd respondent, ought to have waited till completion of enquiry as directed by the 2nd respondent rather than issuing the impugned order in favour of the 5th respondent. Learned counsel further prays this Court to direct the respondents to complete enquiry and take appropriate action and till such time petitioner shall be continued to discharge the functions as fair price shop dealer. It is also the

contention of the learned counsel for the petitioner that if really the 5th respondent is eligible to be appointed in terms of G.O.Ms.No.4, there was no necessity for the 3rd respondent to appoint the 5th respondent as a temporary dealer and the very fact that the 5th respondent came to be appointed as a temporary dealer itself would *prima facie* supports the contention that he is ineligible to be appointed as a dealer.

On the other hand, learned Government Pleader opposes the writ petition and submits that there is no dispute that the father of the 5th respondent died in the year 2015, in terms of para 6 (iii) of G.O.Ms.No.4 the 5th respondent is eligible to be appointed as a dealer, the authorities have taken due care and after having come to the conclusion on enquiry there being no *prima facie* material with respect to allegations of the petitioner, the appointment orders dated 17.04.2016 were issued and as a matter of fact 5th respondent had already taken charge. In these circumstances, learned Government Pleader prays for dismissal of the writ petition lacking *bona fides* and merits.

Having considered the respective submissions, except to the extent of directing the respondent authorities to enquiry into the allegations of the petitioner whether after his appointment as a dealer the 5th respondent is residing at the place where authorization has been issued and discharging his functions as a dealer, the other contentions do not merit consideration. G.O.Ms.No.4 admittedly has been issued for the benefit of family members of the deceased fair price shop dealer. Merely because a particular individual was employed as on the date of his application or even as on the date of his appointment that by itself cannot be a ground to make such person ineligible for appointment under G.O.Ms.No.4. If in the opinion of the applicant carrying on the occupation as a dealer is more beneficial and

convenient than his employment it is always open for such person to take up the dealership or any other employment. The ineligibility would come only after his appointment and when he violates guideline No.8 annexed to G.O.Ms.No.4. Insofar as the other contention of the learned counsel for the petitioner that in terms of para 6 (vii) of G.O.Ms.No.4, the respondent authorities shall ensure that there are no other earning member in the deceased family, the said contention itself is *prima facie* unsustainable. The other prayer of the writ petitioner that pending enquiry, the order of appointment of 5th respondent shall be kept in abeyance, does not merit consideration as it is not the case of the writ petitioner that the

5th respondent is not eligible to be considered in terms of G.O.Ms.No.4 as there being *prima facie* no infirmity in appointing the petitioner, the 5th respondent cannot be interdicted from discharging his duties and eking out his livelihood. However, it is made clear that on enquiry, if the 5th respondent is found to have committed any irregularity or violated any of the conditions/guidelines annexed to G.O.Ms.No.4, the respondent authorities may take appropriate action against the 5th respondent.

Subject to above, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions pending in this writ petition, if any, shall stand closed.

CHALLA KODANDA RAM, J

27th June, 2016
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