

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.13192 OF 2016

ORDER:

The case of the petitioner, as per affidavit averments of the petitioner, is that she was appointed as permanent Fair Price Shop dealer in respect of F.P. Shop No.5 of Adoni Town and Mandal, Kurnool District and her authorization was valid upto 31.03.2016. The 3rd respondent-R.D.O. issued a show cause notice dated 27.12.2014 alleging that the petitioner has indulged in malpractice of seeding bogus/inactive bogus cards while implementing the scheme of Aadhar seeding of ration cards. Thereafter, basing on the report submitted by the 4th respondent-Tahsildar, the 3rd respondent suspended the authorization of the petitioner temporarily. Questioning the same, petitioner filed W.P.No.1040 of 2015 before this Court and this Court allowed the said writ petition by common 04.03.2015 setting aside the proceedings dated 27.12.2014. Aggrieved thereby, the Government preferred an appeal in W.A.No.317 of 2015 before a Division Bench of this Court and the said writ appeal was allowed by a judgment dated 21.04.2015 observing that the enquiry of the matter shall be completed within the stipulated time, failing which the suspension of petitioner's authorization would stand revoked and the petitioner shall be allowed to resume his dealership pending enquiry. It is stated that even after the receipt of the copy of the order in the said Writ Appeal, the 3rd respondent failed to initiate any enquiry against the petitioner and the other similarly situated dealers. Thereafter, one of the similarly effected dealer filed a Contempt Case No.1061 of 2015 for violating the orders of the Division Bench of this Court. The 3rd respondent after coming to know that the contempt case is filed against him, he issued another show cause notice with an anti date 28.05.2015

calling for explanation from the petitioner and the petitioner offered his explanation on 28.06.2015 denying the allegations made against him, but the 3rd respondent refused to receive the same and ultimately served the proceedings dated 29.06.2015 cancelling the authorization of the petitioner without giving the opportunity of hearing to the petitioner. Questioning the same, petitioner preferred an appeal to the 2nd respondent-Joint Collector on 12.11.2015 along with the stay application. But, the 2nd respondent-Joint Collector did not pass any orders either in the appeal or in the stay application. Hence, the present writ petition.

Learned counsel for the petitioner contended that the 2nd respondent-Joint Collector, who is the appellate authority, had not taken any steps either to dispose of the appeal or to pass any orders stay application. The learned counsel 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, and contended that the order of the primary authority as well as the appellate authority are liable to be interfered with.

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-The Revenue Divisional Officer, Adone, Kurnool District, pending disposal of appeal or stay petition whichever is earlier by the 2nd respondent. The 2nd respondent shall dispose of the appeal, stated to have filed on 12.11.2015 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

21st April, 2016.

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