

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B.BHOSALE
AND
HON'BLE SRI JUSTICE P.NAVEEN RAO**

WRIT APPEAL No.1043 of 2015

Date: 16-6-2016

Between:

Smt V Reddamma, W/o V Ramachandra naidu
R/o Peddakammapalle hamlet of Thimmapuram village,
K V Palle mandal, Chittoor district

.....Appellant

and

Smt A Gangulamma W/o A Nagaraja
R/o Kondakinda Harijanwada
hamlet of Thimmapuram village,
K V Palle mandal, Chittoor district and others

.....Respondents

The Court made the following:

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
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PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

Heard the learned counsel for the parties.

2. The appellant is 5th respondent in the writ petition. Parties are referred as arrayed in the writ petition. The 5th respondent was granted fair price shop in Kondakinda Harijanwada, hamlet of Thimmapuram village, K.V.Palle mandal, Chittoor district. The petitioner challenges the said appointment in the writ petition.

3. The facts as noted in the order of learned single Judge would disclose that by proceedings dated 11.6.2003, 5th respondent was appointed as fair price shop dealer. Same was challenged in appeal by the petitioner. By order dated 29.10.2003, 2nd respondent allowed the said appeal. 2nd respondent held that 5th respondent is resident of Peddakammapalle village which is 2 KMs away from the village in which fair price shop is located. Matter was remanded to 3rd respondent for fresh consideration. In the revision filed by the 5th respondent, the revisional authority concurred with the opinion of 2nd respondent. He also observed that it would be more appropriate if the petitioner was appointed as he is more qualified. Against the said order, 5th respondent filed W P No. 19492 of 2007. The observations in the order of revision to the extent of holding that the petitioner is more qualified for being appointed were set aside. Consequently, proceedings dated 26.3.2008 were issued once again appointing 5th respondent.

4. It is not in dispute that the 5th respondent do not belong to Kondakinda Harijanwada, hamlet of Timmapuram village and is resident of Peddakammapalle. As noticed by the learned single Judge, finding of the District Collector in proceedings dated 3.9.2007 is categorical that the 5th respondent do not belong to Kondakinda Harijanwada where fair price shop is located. For the first time in the writ appeal, 5th respondent seeks to contend that though fair price

shop is located in Kondakinda Harijanwada, majority of the ration cards belong to Peddakammapalle village and, therefore, person belonging to Peddakammapalle village ought have been appointed.

Since, 5th respondent did not raise this contention in the writ petition, he cannot be permitted to raise such a contention for the first time in the writ appeal. Be that as it may, admittedly, fair price shop is located in Kondakinda Harijanwada and petitioner do not belong to that hamlet. Therefore, we do not see any error in the decision arrived at by the learned single Judge. Accordingly, writ appeal is dismissed. No costs. Miscellaneous petitions, if any, stand dismissed.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date:16.6.2016
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