

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

WRIT APPEAL No.272 of 2016

Date: 19.04.2016

Between:

The State of A.P., rep.by its Secretary, Civil Supplies
Department, Secretariat, Hyderabad and two others.

.....Appellants/
Respondents in writ petition

and

Smt. Attanti Vijaya, W/o Veera Vasantha Rao,
Aged 31 years, F.P.Shop Dealer, Shop NO.6,
R/o Kondamudusupalem Village, Kandukuru
Mandal, Prakasam District.

.....Respondent/
Petitioner in writ petition

The Court made the following:

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

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PC: (Per the Hon'ble Sri Justice P.Naveen Rao)

Heard learned Government Pleader for Civil Supplies (AP) and learned counsel for appellants.

2. Writ Petitioner is a fair-price-shop dealer. Petitioner assailed cancellation of the dealership licence granted to the petitioner vide orders of the Revenue Divisional Officer dated 02.07.2014, which was confirmed by the District Collector (Civil Supplies) vide his order dated 28.10.2014.

3. Petitioner was served with show-cause notice leveling two charges in the functioning as fair-price-shop dealer. Construing the explanation of the petitioner as admission of petitioner on the first charge and rejecting the explanation without assigning due reasons and examining material on record on second charge, held the charges as proved resulting in terminating the dealership.

4. With reference to first charge, learned single Judge observed that explanation given by the petitioner did not amount to accepting the allegations and that merely because person is helping in unloading the rice bags and for weighing them does not amount to operating the dealership as benami. Learned single Judge further noticed that no evidence was relied upon in support of the allegation that so-called Madhava Rao was in fact running the shop on benami name and not merely assisting the petitioner. Learned single Judge, therefore, held that merely because the petitioner stated that she was taking the help of Madhava Rao for unloading the rice bags does not amount to acceptance of the allegation. With reference to the second charge, learned single Judge observed that the finding on charge no.2 was without any evidence on record.

5. Having regard to the said findings, learned single Judge set aside the cancellation of petitioner fair-price-shop dealer licence.

6. Learned Government Pleader sought to contend that action of the petitioner was in violation of the orders of the Government in G.O.Ms.No.4, Consumer Affairs and Civil Supplies-1 Department,

dated 19.02.2011, which prohibits taking assistance from the person other than the close relative. The petitioner did not disclose the name of said family member in the dealer's supply card and, therefore, the very presence of Madhava Rao in the shop amounts to operating the fair-price-shop on benami name. We cannot countenance such argument. On assessment of material on record, learned Judge held that taking help of a close relative to unload rice bags and to weigh them, in the absence of any other material, does not amount to operating the fair-price-shop on benami name. We are in respectful agreement with the reasoning assigned by learned single Judge. Writ appeal merits no consideration and is accordingly dismissed.

Miscellaneous petitions if any pending shall stand closed. No costs.

DILIP B. BHOSALE, ACJ

P.NAVEEN RAO, J

Date:19.04.2016
Kkm/

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