

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.33182 of 2016

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the third respondent in refusing to receive demand draft from the petitioner for release of essential commodities as illegal and arbitrary.

2. Heard Sri Kotireddy Idamakanti, the learned counsel for the petitioner and the learned Assistant Government Pleader for Civil Supplies(Andhra Pradesh) representing the respondents 1 to 3.

3. It is the case of the petitioner that the husband of the petitioner was appointed as fair price shop dealer in respect of shop No.47 of Gudipudivaripalem village, Chimakurthi Mandal, Prakasam District. The husband of the petitioner died on 26.04.2016. On 26.05.2016 the petitioner submitted an application to respondents 2 and 3 with a request to appoint her as fair price shop dealer in respect of shop No.47 on compassionate grounds. The second respondent appointed the petitioner as fair price shop dealer for shop No.47 on 23.07.2016 in view of G.O.Ms.No.4 Consumer Affairs, Food & Civil Supplies (CS.I) Department, dated 28.02.2014.

4. A perusal of the record reveals that the third respondent released the essential commodities to the petitioner for the month of September 2016, however, refused to receive the demand draft submitted by the petitioner for the month of October 2016.

5. The learned Assistant Government Pleader on instructions submitted that the petitioner got appointment as fair price shop dealer on compassionate grounds by producing a false educational certificate as if she completed 8th class.

6. It is not in dispute that the minimum educational qualification for appointment as fair price shop dealer is 10th class. Even as per the admitted case of the petitioner, she passed 8th class.

7. It is not out of place to extract here under Clause 5 of G.O.Ms.No.4 dated 28.02.2014.

“The legal heirs, who were not having prescribed educational qualifications, shall be given three years time from the date of appointment for possessing the prescribed educational qualifications.”

The second respondent got issued a show cause notice dated 16.09.2016 directing the petitioner to produce her original 8th class TC duly attested by the Head-master, Government High School, Darsi of Prakasam District within seven days from the date of receipt of notice.

8. Learned counsel for the petitioner submitted that he is not aware whether the petitioner submitted her explanation or not pursuant to the said show cause notice.

9. It is needless to say that the second respondent is the competent authority to take appropriate action against the petitioner in accordance with law, therefore, this Court is not inclined to express any opinion with regard to the genuineness or otherwise of the educational qualifications produced by the petitioner.

10. Learned counsel for the petitioner submitted that the third respondent has to supply the essential commodities to the petitioner so long as her authorization is in subsistence. The learned Assistant Government Pleader in all fairness submitted that the authorization of the petitioner is not suspended so far.

11. As per the principle enunciated in *Oleti Tirupathamma v District Supply Officer (City), Visakhapatnam*¹, the licensing authority refusing to supply essential articles to dealer without suspending his licence is illegal.

12. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, the third respondent is hereby directed to supply essential commodities to the petitioner as long as her authorization is in subsistence. It is made clear that the order passed by this Court does not preclude the respondents to take appropriate action against the petitioner, in accordance with law, in the light of the provisions of the Essential Commodities Act and Control Order 2008.

13. With the above direction, the writ petition is disposed of. No order as to costs. As a sequel, the miscellaneous petitions, pending if any in this writ petition, shall stand closed.

T. SUNIL CHOWDARY, J

September 28, 2016.

Note:

Issue C.C. by 03.10.2016.

B/ o. Rns

¹ 2002(1) ALD 577(FB)