

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.26512 of 2015

ORDER:

The Writ Petition is filed questioning the order, dated 27-07-2015, issued by the Revenue Divisional Officer, Srikakulam, canceling the authorization of the petitioner as a fair price shop dealer of Chellayavalasa Village, Polaki Mandal, Srikakulam District and also the Writ Petition assails the order, dated 23-06-2015, passed by the District Collector, Srikakulam District, allowing the revision filed by the 5th Respondent against the order of the Joint Collector, dated 24-10-2008, confirming the cancellation of fair price shop authorization order of the Tahsildar, Polaki Mandal, dated 16-10-2007.

The facts in brief are that the 5th Respondent was the fair price shop dealer of Chellayavalasa Village and on certain allegations, the authorization of the 5th respondent came to be cancelled on 16-10-2007 by the competent authority. As against that, the 5th Respondent appears to have filed appeal before the Joint Collector and the same was also dismissed by order, dated 24-10-2008. As against which, the 5th Respondent appears to have preferred revision to the Collector on 30-11-2008 and no orders of stay of the proceedings were made. In 2009, a notification was issued calling for selection of fair price shop dealer and the petitioner became the successful candidate and thus on 18-02-2009, the petitioner was

appointed as a dealer and from 18-02-2009, the petitioner continued to be authorized dealer and the authorization in favour of the petitioner was being renewed from time to time. Last of the renewal was effected on 23-03-2015 and the same is valid till 31-03-2017. These facts are not in dispute.

The revision filed by the 5th Respondent came to be allowed by the Joint Collector by order, dated 23-06-2015. In the revision order, the Collector – 2nd Respondent did not disturb any findings recorded, either by the primary authority or of the appellate authority. However, considering the plea made by the 5th Respondent's counsel that the 5th Respondent had now deprived of the authorization for a period of eight years from 2007 to 2015, the revisional authority considered it appropriate that deprivation of eight years is sufficient punishment and thus on that sole ground the revision was allowed with a further direction to the Revenue Divisional Officer to take action. Citing the allowing of the revision by the Collector, the Revenue Divisional Officer cancelled the authorization granted and subsisting in favour of the petitioner.

Heard Sri V.Sudhakar Reddy, the learned counsel for the petitioner, the learned Government Pleader for Civil Supplies appearing for Respondent Nos. 1 to 4 and Sri V.H.V.R.R.Swamy, learned counsel appearing for the Respondent No.5.

As can be seen from the narration as above, it is evident that the appointment of the petitioner is pursuant to the

notification issued and the same was to be on permanent basis and the same was also valid till 2017. Though the petitioner had challenged the order of the Collector passed in the revision in favour of the 5th Respondent on merits, the petitioner cannot have any grievance, except the plea to the effect that merely on account of the revision being allowed, the authorization which was granted lawfully in his favour cannot be disturbed. The peculiar situation, which has been brought, is only on account of the negligence of the respondent-authorities, particularly concerned Revenue Divisional Officer not bringing to the notice of the Collector the factum of the petitioner having been appointed as a permanent dealer and the consequence of merely allowing the revision may result in a conflict of interest between the interests of the petitioner as well as the 5th respondent. Even the District Collector, before making the order mechanically directing the Revenue Divisional Officer to take further steps, ought to have verified the fact situation as prevailing, especially considering the fact the cancellation was of the year 2007 and the order of the Joint Collector is of the year 2008 and the revision itself is being taken up for hearing after long lapse of eight years. In the peculiar fact situation of this nature, while the petitioner cannot be denied the benefit of his being appointed as fair price shop dealer, the benefit of the 5th respondent succeeding in revision also cannot be denied in favour of the 5th respondent. In these circumstances, interest of justice would be served if the District Collector is directed to take into consideration of the fact situation and make necessary alternative arrangements in favour of the

5th Respondent in whose favour revision has been allowed in the year 2015.

In the facts and circumstances, the Writ Petition is allowed by setting aside the order of the Revenue Divisional Officer, dated 27-07-2015 and with a further direction to the District Collector to take appropriate steps to accommodate the 5th respondent in an alternative place. No order as to costs.

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

CHALLA KODANDA RAM, J.

Date: 15-06-2016
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