

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No.9483 of 2016**

**ORDER:**

This Writ Petition is filed challenging the proceedings in Rc.A7/142/2015, dated 24.11.2015 issued by the 3<sup>rd</sup> Respondent-Sub-Collector, Vijayawada and also questioning the inaction on the part of the 2<sup>nd</sup> respondent-Joint Collector, in not considering the appeal and stay application of the petitioner.

The case of the petitioner is that he was appointed as fair price shop dealer of Shop No.230 of Mogalrajpuram, Vijayawada, Krishna District, and has been distributing essential commodities to the card holders in the village regularly without any remarks. While so, basing on the report dated 17.01.2015 of the Assistant Supply Officer, Circle-II, Vijayawada, the 3<sup>rd</sup> respondent-Sub-Collector, Vijayawada, has issued show cause notice dated 28.01.2015 framing the following two charges –

- 1) Sri S. Chandra Rao, F.P.Shop Dealer No.230, Mogalrajpuram, Vijayawada has an intention to divert the sankranthi kanuka commodities into black market by issuing under weighment to the card holders and thus violated clause 17(A) A.P. Public Distribution (Control) Order, 2008.
- 2) The F.P.Shop dealer was allowing a benami person to run the F.P. Shop at the time of prestigious scheme and thus the F.P.Shop dealer has violated condition 2(!) of Annexure-I of APSPDS (Control) Order, 2008.

The petitioner has submitted his detailed explanation dated 18.02.2015. Since the 3<sup>rd</sup> respondent has not completed the enquiry and passed final orders, he filed W.P.No.27686 of 2015 and this Hon'ble Court by an order dated 07.09.2015 directed the 3<sup>rd</sup> respondent herein to conduct an enquiry in respect of the allegations levelled against the petitioner and complete the same, within a period of 30 days from the date of receipt of a copy of the order. Accordingly,

the 3<sup>rd</sup> respondent has passed the impugned proceedings dated 24.11.2015 cancelling the petitioner's Fair Price Shop dealership authorisation without properly considering the explanation submitted by the petitioner. Aggrieved by the said orders he filed an appeal before the 2<sup>nd</sup> respondent-Joint Collector, Krishna District at Machilipatnam, along with stay application on 28.12.2015, but so far the 2<sup>nd</sup> respondent has not passed any orders either on his appeal or on the stay application. Hence, the writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Learned counsel for the petitioner contended that the 2<sup>nd</sup> respondent, who is the appellate authority, has not passed any orders either in the appeal or in the stay application. While pointing out the defects in the order passed by the primary authority, i.e., the Sub-Collector, Vijayawada, canceling the fair price shop dealership of the petitioner, the learned counsel relied on a judgment of this Court in **Anab-E-Shahi Wines and another vs. Deputy Commissioner** <sup>[1]</sup> wherein this Court had taken a view that it would be unreasonable if the 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 the judgment dated 14.05.2015 of another Division Bench in W.A.No.382 of 2015.

In the 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 a fair price shop dealership license. 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 2<sup>nd</sup> 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 dated 28.12.2015, passed by the 3<sup>rd</sup> respondent-Sub-Collector, Vijayawada, pending disposal of the appeal by the 2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent shall dispose of the appeal within a period of six weeks from the date of receipt of a copy of this order.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

23<sup>rd</sup> March, 2016  
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[\[1\]](#) (1995) 98 STC 386 (AP)