

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.405 OF 2016

ORDER:

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Civil Supplies and Smt. A.B. Lalitha Gayatri, learned counsel for implead petitioner/ respondent No.4.

The proceedings in Rc.No.7731/2015/L, dated 26.12.2015, issued by the 2nd respondent cancelling the Fair Price Shop authorization of the petitioner are challenged in this Writ Petition on the ground that no enquiry was conducted by the respondent authorities.

The case of the petitioner is that some persons have made complaints against him and the contents thereof were not made available to him and he never had an opportunity to cross-examine the said persons, and the entire so-called enquiry, is a sham one. According to him, at the instance of the Joint Collector, Guntur, vide proceedings No.288/15/S7, dated 02.11.2015, the impugned orders came to be passed against the petitioner, and therefore, as it would cause injustice to him, if he approaches the Joint Collector, Guntur District, before whom the appeal provision is made available, he straight away approached this Court by filing this Writ Petition.

Learned counsel for the implead petitioner, however, placed on record bunch of documents to show that the petitioner had committed various irregularities in distributing the essential commodities during the last few years. She also submits that the authorization of the petitioner has been cancelled and the same was restored only on technical grounds to be enquired into. She further submits that after full-fledged enquiry only, the authorization of the petitioner had been cancelled, and in the interregnum, the 4th respondent was appointed as FPS dealer to distribute the essential commodities, as such she has

vested right in the matter.

So far as the submission made on behalf of the 4th respondent is concerned, it can be said that she has a limited role and she has no vested right except to the extent that when a fresh appointment is proposed, she could be one of the applicants along with all others who are eligible to be considered for FPS dealership.

Though the petitioner is apprehending that injustice would cause to him if he approaches the Joint Collector, this Court cannot adjudicate the matter on merits, at this stage, when there is a provision for appeal before the statutory authority.

In the normal course of things, the petitioner has an effective alternative remedy of appeal before the Joint Collector, Guntur District. However, since the petitioner apprehends that there is some element of bias and prejudice in the hands of the Joint Collector, interests of justice would be met, if the District Collector, Guntur District, is directed to entertain the appeal that may be filed by the petitioner.

Hence, the Writ Petition is disposed of giving liberty to the petitioner to file an appeal before the District Collector, Guntur District, along with an application for stay, within ten (10) days from the date of receipt of a copy of this order. As and when such appeal is filed by the petitioner, the District Collector is directed to consider and dispose of either the appeal or the application for stay, on merits, within two (2) weeks thereafter. Till the disposal of the appeal, there shall be stay of impugned proceedings. There shall be no order as to costs.

The miscellaneous petitions, if any, filed in the Writ Petition shall stand closed.

CHALLA KODANDA RAM, J

11.03.2016
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