

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.4922 of 2016

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Between:

R. Rupavathi

PETITIONER

AND

1. The State of Andhra Pradesh rep. by its Secretary, Consumer Affairs, Food and Civil Supplies (CS.I) Department, Secretariat, Secretariat Buildings, Hyderabad, and others.

RESPONDENTS

ORDER:

The case of the petitioner is that she was appointed as fair price shop dealer of Shop No.40 of Tanda Village, Gooty Mandal, Anantapuram District. While so, the Mandal Revenue Inspector-II inspected the petitioner's fair price shop and found certain irregularities, and submitted a report to the 3rd respondent, who in turn forwarded the same to the 2nd respondent. The 2nd respondent issued show cause notice dated 20.04.2015 framing six charges, which was received by the petitioner on 27.04.2015. The petitioner submitted her explanation on 05.05.2015. But the 2nd respondent issued proceedings dated 02.05.2015 suspending the authorization of the petitioner. Aggrieved by the same, the petitioner filed W.P.No.17937 of 2015 and this Court vide order dated 09.06.2015 set aside the orders of suspension, however, gave liberty to the 2nd respondent to conduct enquiry into the allegations within a period of three months. Accordingly, the 2nd respondent received the explanation submitted by the petitioner, but without conducting enquiry as contemplated under Clause 5(5) of the Control Order, 2008, passed the cancellation order dated 30.10.2015 holding that the charges held proved. Against the order of the 2nd respondent, the petitioner filed an appeal before the 4th respondent along with an application for stay. The 4th respondent vide order dated 30.11.2015 rejected to grant stay pending disposal of the appeal. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner contended that the 4th respondent, who is the appellate authority, had not stated any reasons for rejecting the stay application. While pointing out the defects in the order passed by the primary authority, i.e., the Revenue Divisional

Officer, Ananthapuram, 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^[1]

wherein this Court had taken a view that it would be unreasonable if 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 to stay the 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 4th

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 of the 2nd respondent-Revenue Divisional Officer, pending disposal of the appeal by the 4th respondent. The 4th 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. No order as to costs.

CHALLA KODANDA RAM, J.

16th February, 2016
Js.

[\[1\]](#) (1995) 98 STC 386 (AP)