

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 21039 of 2016

ORDER:

The petitioner was appointed as the fair price shop dealer of Shop No. 30 of Kakarakayalapalle, H/o Valasalapalle, Madanapalle Rural, on 20.06.2001, on temporary basis, and since then he has been discharging the functions as such. He made several representations to the Revenue Divisional Officer to appoint him as the fair price shop dealer, on permanent basis. Since no orders have been passed thereon, he filed Writ Petition No. 17065 of 2009. This Court, while disposing of the Writ Petition, directed the 1st respondent therein to consider the representation of the petitioner dated 13.07.2009 and pass appropriate orders in accordance with the Rules within a period of eight weeks from the date of receipt of a copy of that order. Despite the said directive, the 3rd respondent Sub-Collector, Madanapalle, without considering his case, issued the notification dated 21.06.2016 calling for applications from the candidates belonging to BC-D category for appointment of fair price shop dealer for the subject shop, is the ground based on which the petitioner has instituted this Writ Petition.

Learned counsel for the petitioner would submit that the impugned notification has been issued notifying the vacancy for the shop in question to be filled in by the members belonging to a particular category i.e. BC-D, which is in utter violation of the direction issued by this Court in Writ Petition No. 17065 of 2009.

On the other hand, learned Government Pleader for Civil Supplies (Andhra Pradesh) submits that in terms of the policy decision contained in G.O.Ms. No. 4, dated 19.02.2011 and pursuant to the orders of this Court, following the roaster system, the subject shop has

been reserved for the candidates belonging to BC-D community, hence, the impugned notice cannot be said to be illegal or contrary to the direction issued by this Court in Writ Petition No. 17065 of 2009.

At the outset, it is to be noted that the prayer sought for in this Writ Petition cannot be granted, inasmuch as this Court in the abovesaid Writ Petition, directed the 1st respondent therein to consider the case of the petitioner for appointment as a fair price shop dealer. It cannot be construed as if it is a direction to appoint the petitioner as such. Further, as rightly submitted by the learned Government Pleader, the respondent authorities have reserved this shop only in terms of the policy decision taken by the government, for which no *mala fides* can be attributed to them. On this ground alone, this Writ Petition is liable to be rejected.

However, since the grievance of the petitioner is that his case was not considered, though there is a specific direction to the respondents and in view of the fact that he has been functioning as the fair price shop dealer from 2001 onwards, it would be appropriate to direct that the petitioner's case may be considered, on preferential basis, with respect to the other fair price shops, subject to his fulfilling other conditions and eligibility criteria. Ordered accordingly.

It is needless to mention that till a fair price shop dealer is appointed, on permanent basis, the petitioner shall be allowed to discharge the functions as such.

With this, the Writ Petition stands disposed of. No costs.

Consequently, the Miscellaneous Applications, if any shall also stand disposed of.

CHALLA KODANDA RAM, J.

30th June 2016

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