

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

[Special Original Jurisdiction]

TUESDAY THE SIXTEENTH DAY OF FEBRAURY
TWO THOUSAND AND SIXTEEN

PRESENT
HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 39658 OF 2012

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Between:

Banoth Kala & Anr. ... Petitioners

Vs.

The State of Andhra Pradesh
Rep.by Secretary, Civil Supplies Department,
Secretariat, Hyderabad & Ors. ... Respondents

Counsel for the Petitioners: Sri S.Rahul Reddy

Counsel for the Respondents: GP for Civil Supplies
Sri G. Rajesham
Sri V.Padmaja Reddy

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 39658 OF 2012

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ORDER:

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The petitioners pray for mandamus declaring the written test held on 25/11/2012 pursuant to the notification Rc.No. E/6076/2012, dated 08/11/2012 as arbitrary, illegal and contrary to G.O.Ms.No.4, dated 19/2/2011.

2. The facts and circumstances are not in dispute, therefore to the extent necessary circumstances as set out in the pleadings are referred to. The fourth respondent issued notification Rc.No. E/6076/2012, dated 08/11/2012 calling for applications from eligible candidates for appointment as fair price shop dealers for the Fair Price Shops covered by the said notification. The notification is issued in terms of G.O.Ms.No.4, Consumer Affairs, Food and Civil Supplies [CS.I] Department, dated 19/2/2011. The petitioners applied for dealers in the notified Fair Price Shops. The petitioners have taken the written test held on 25/11/2012. It is fairly admitted by the petitioners that they were not qualified in the written test held on 25/11/2012. In this

background, the grievance of the petitioners is that the petitioners satisfy minimum educational qualifications as prescribed by G.O.Ms.No.4 and the fourth respondent being the competent authority is required to conduct written test in terms of clause 2 of annexure appended to G.O.Ms.No.4, dated 19/2/2011. The clause reads as follows:

“The Appointing Authority shall cause service of letters calling upon all the eligible applicants for an interview duly indicating the date, time and venue of interviews. Selection shall be made on the basis of interviews conducted by the Appointing Authority, purely on merit, to be determined on the basis of the minimum general educational qualifications of the candidates and other criteria indicated in the foregoing paras and in the A.P.Public Distribution System [Control] Order, 2008. The interview shall be for 50 marks. After the interview is completed, the list of the candidates qualified based on the written test and the viva voce shall be prepared and the candidates who secured the highest marks shall be declared eligible for appointment after due verification of the antecedents and other process as prescribed in this order.”

3. The further objection is that the fourth respondent is required to call for interview firstly in the ratio of 1:5 and if the qualified candidates in the written test are less than 5, the Appointing Authority may confine the ratio to the exact number of qualified candidates in the written test. If the qualified candidates in the written test are more than 5, it shall be restricted to 5 only based on the marks from the highest in the descending order.

According to petitioners, the written test conducted by the fourth respondent is not in consonance with G.O.Ms.No.4. The fourth respondent is required to conduct written test generally on the PDS and the records to be maintained by the fair price shop dealers to know whether the applicant is aware of the functioning of public distribution system in the State and can effectively function as Fair Price Shop Dealer. In the written test held on 25/11/2012 according to petitioners the paper is set in such a way that the questions are so complicated and persons with rural background cannot and could not take up written test. Counsel appearing for the petitioners relies upon the details furnished by fourth respondent in the counter-affidavit dated 29/6/2013 which reads thus:

“It is submitted that regarding the content of the written test, it is submitted that as per the guidelines issued vide G.O.Ms.No.4, the topics should cover the existing PD system and the records to be maintained by the fair price shop dealer and also to know whether the applicant is aware of the functioning of the Public Distribution System in the State and whether the applicant can function effectively in implementation of Public Distribution System and also the awareness on other general issues.”

“Further it is submitted that [1928] candidates appeared for the written test conducted on 25/11/1992 and [25] candidates were qualified for the interviews. Further it is submitted that out of [50] questions [23] questions were framed pertaining to PDS alone. The remaining questions belongs to general awareness..”

Counsel for the petitioners has drawn the attention of the Court to the interim order dated 26/12/2012 to contend that in view of the interim order the appointments are held back. He contends that the written test held on 25/11/2012 is required to be held as illegal and arbitrary.

4. Learned Government Pleader appearing for fourth respondent relies on counter-affidavit filed by the fourth respondent and contends that clause 2 of G.O.Ms.No. 4 shall have to be treated as a guideline and that the fourth respondent being the competent authority, has complied with the requirement of including questions relating to PDS and maintaining of records and with a view to further test the general knowledge of the applicants included questions dealing general studies. Therefore, no exception can be taken. On the exact number of qualified candidates, learned Government Pleader fairly states that the very fact that as against 1928 candidates who appeared for the written test 25 candidates were qualified would go to show that the questions set for written test for appointment as fair price shop dealer are certainly beyond the requirement of the post. On instructions, he submits that interim order was granted on

29/11/2012 not to give appointment order and accordingly orders are not issued. He further states that the fourth respondent while continuing the existing arrangement, will issue fresh notification for appointing regular fair price shop dealers not only to the places notified in the notification dated 08/11/2012 but also for vacancies which have arisen in the interregnum. The statement of the learned Government Pleader is accepted. The writ petition is disposed of by making the interim order as final order. However liberty is given to the respondent to issue a notification for appointment as Fair Price Shop Dealer in accordance with law. It is made clear that this Court is not expressing any view on the merits urged by the learned counsel for the petitioners as a fresh notification for appointment is contemplated.

5. The writ petition ordered as indicated above. No costs.

6. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT

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