

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM
WRIT PETITION No.11452 OF 2016

ORDER:

The case of the petitioner, as per affidavit averments of the petitioner, is that he was appointed as permanent Fair Price Shop dealer in respect of F.P. Shop No.33 of Thimmanayunipalyam Village of Mudigubba Mandal, Ananthapuram District. While so, on 19.09.2015, the 3rd respondent suspended the authorization of the petitioner basing on the report of the 4th respondent on the ground that the petitioner was using local containers and less weighments by using local stones. As against the same, petitioner filed an appeal before the 2nd respondent, which was disposed of by the 2nd respondent remanding the matter to the 3rd respondent with a direction to pass final orders in the matter duly issuing a show cause notice and after providing an opportunity to the petitioner by proceedings in L.Dis.No.K6/884/2015 dated 12.11.2015. After the said remand, the 3rd respondent took up the matter, issued notice dated 02.12.2015 to the petitioner. After receiving the explanation of the petitioner, the 3rd respondent had passed the impugned proceedings in D.Dis.No.(F) 4642/2015 dated 15.01.2016 canceling the authorization of the petitioner. Challenging the same, petitioner filed an appeal before the 2nd respondent along with a stay application on 08.02.2016. Since the 2nd respondent was not passing orders either in appeal or in stay petition, petitioner filed the present writ petition.

Learned counsel for the petitioner contended that the 2nd respondent, who is appellate authority, is not taking up the appeal filed by the petitioner or atleast the stay petition. In support of his submission, learned counsel for the petitioner 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.

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 judgment dated 14.05.2015 of another Division Bench in W.A.No.382 of 2015.

In 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 fair price shop dealership authorization. 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 2nd 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 3rd respondent-The Revenue Divisional Officer, Dharmavaram, Ananthapuram District, pending disposal of appeal or stay petition whichever is earlier by the 2nd respondent. The 2nd respondent shall dispose of the appeal, stated to have filed on 08.02.2016 by the petitioner, within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous petitions pending in the writ petition, if any, shall stand closed.

Challa Kodanda Ram, J

29th March, 2016.

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