

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.13359 of 2017

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“For all the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent i.e. the Joint Collector, Kurnool in passing orders in Appeal Case No.CS.3/346/2015 dt.21.03.2017 by confirming the orders of the Revenue Divisional Officer, Nandyal, Kurnool District passed vide Rc.B.No.2955/CS/2015 dt.23.10.2015 as illegal, arbitrary.”

Heard learned counsel for petitioner and learned Government Pleader for Civil Supplies appearing for respondents.

The Revenue Divisional Officer, Nandyal, by way of order, dated 23.10.2015, cancelled the fair price shop authorization of the petitioner in respect of shop No.33 of Ramakrishnapuram (Uraf) Nagisettipalle Village, Kolimigundla Mandal, Kurnool District. Assailing the said order of cancellation, the petitioner filed Writ Petition No.15014 of 2016 before this Court and this Court disposed of the said Writ Petition by way of order, dated 28.04.2016 and the operative portion of the said order reads as under:

“In the circumstances, the Writ Petition is disposed of directing the petitioner to avail the alternative remedy of appeal before the Joint Collector against the impugned order passed by the 3rd

respondent. Therefore, the petitioner shall file an appeal before the Joint Collector within a period of 30 days from the date of receipt of copy of this order. As and when such appeal is filed by the petitioner, the Joint Collector is directed to dispose of the said appeal or any stay application filed within a period of four weeks from the date of filing of such appeal, after taking into consideration of the explanation submitted by the petitioner and after conducting independent enquiry into the charges framed against the petitioner. Till the disposal of appeal or any stay application filed by the petitioner, there shall be interim stay of the impugned order. No costs. Miscellaneous petitions, if any pending in this Writ Petition, shall also be closed.”

Pursuant to the above said order, the petitioner filed an appeal before the Joint Collector, Kurnool. The Joint Collector by way of an order, dated 21.03.2017, on the ground that there was proof for charges 1, 2 and 5, upheld the order of cancellation passed by the Revenue Divisional Officer. Questioning the said order, the petitioner filed a revision before the District Collector, Kurnool, on 03.04.2017. Along with the said revision, the petitioner filed stay application.

It is submitted by the learned counsel for the petitioner that no orders have been passed by the District Collector either on the stay application or on the revision and in view of the same, the petitioner is suffering irreparable loss and hardship. It is further submitted that very order of cancellation passed by the Revenue Divisional Officer, as modified and upheld by the Joint Collector, is highly illegal and arbitrary and opposed to the very spirit and

object of the provisions of the Andhra Pradesh State Public Distribution System (Control) Order, 2008.

On the contrary, it is submitted by the learned Government Pleader that there is absolutely no illegality nor there is any procedural infirmity in the impugned action and since the revision is pending consideration before the District Collector, it is not open for the petitioner to question the order of cancellation as confirmed in appeal by the Joint Collector.

A perusal of the material available before this Court discloses that the Revenue Divisional Officer pointed out as many as six irregularities and cancelled the fair price shop authorization of the petitioner. In the appeal, the Joint Collector held that there was no proof for charges 3, 4 and 6 while upholding the orders on charges 1, 2 and 5. There is also no dispute with regard to the fact that earlier, the petitioner filed Writ Petition No.15014 of 2016 and this Court disposed of the said Writ Petition by way of order, dated 28.04.2016, permitting the petitioner to avail alternative remedy of appeal before the Joint Collector, while granting interim stay of the impugned order passed by the Revenue Divisional Officer, pending disposal of such appeal or stay application filed before the Joint Collector.

Having heard the learned counsel for the petitioner and the learned Government Pleader and taking into consideration the facts and circumstances of the present case and the subsistence of

the interim orders pending appeal before the Joint Collector, this Court is of the considered opinion that ends of justice will be served, if the District Collector is directed to pass appropriate orders on the stay application, dated 03.04.2017, filed by the petitioner along with the revision, preferred against the order, dated 21.03.2017, passed by the appellate authority, within some timeframe.

For the aforesaid reasons, the Writ Petition is disposed of, directing the District Collector, Kurnool, to dispose of the stay application, dated 03.04.2017, filed by the petitioner along with the revision filed against the order, dated 21.03.2017, passed by the Joint Collector, within a period of four weeks from the date of receipt of a copy of this order. Pending the said exercise, there shall be stay of the order of cancellation, dated 23.10.2015, as confirmed in appeal vide order, dated 21.03.2017, and the District Collector shall make an endeavour to dispose of the revision after giving notice and opportunity to the petitioner, as expeditiously as possible, as per law.

Consequently, Miscellaneous Petitions, if any pending in this Writ Petition, shall stand closed. No order as to costs.

A.V.SESHA SAI, J

17th APRIL, 2017.

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