

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Writ Appeal No.710 of 2014

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 336 of 2010 dated 12.3.2014. The appellant herein is the petitioner in the writ petition. The writ petition was filed questioning the orders of the second and third respondent, in appointing the 4th respondent, as a fair price shop dealer as arbitrary and illegal.

Sri S.V. Muni Reddy, learned counsel for the appellant, would vehemently contend that, since the 4th respondent did not fulfil the requirement of passing the tenth class which is the qualification prescribed in the notification for being appointed as a fair price shop dealer, the action of the respondents in appointing her as a fair price shop dealer is arbitrary and illegal.

In the order under appeal, the learned Single Judge, while noting that the 4th respondent did not possess the qualification of passing the tenth class, however held that Clause 5(1)(a) of the Control Order enabled consideration of candidates with lesser qualification, not less than a pass in the seventh class; the 4th respondent was a young widow having two female children; she also had to look after her parents-in-law; she had experience in running the fair price shop, while she was assisting her husband; and, in terms of G.O. Ms. No.4 dated 28.2.2014, the Government had decided to appoint legal heirs, of the deceased, as fair price shop dealers and, with respect to the qualification, they were given three years time, from the date of appointment, to secure the prescribed educational qualifications. The learned Single Judge, therefore, chose not to interfere with the orders passed by the authorities in appointing the 4th respondent as a fair price shop dealer.

The proceeding under challenge, in the writ petition before the learned Single Judge, is the order dated 26.10.2008. As the writ petition was dismissed, and there has been no stay during the pendency of the appeal, it is evident that the 4th respondent has been functioning as a fair price shop dealer for the past nearly nine years. The learned Single Judge has taken a sympathetic view of the matter having noticed that the 4th respondent was a young widow with two small female children and has refrained from interference with the order of appointment in view of Clause 5(1)(a) of the Control Order, and G.O. Ms. No. 4 dated 28.2.2014.

Interference in an intra-Court appeal, under Clause 15 of the Letters Patent, is justified only if the order under appeal suffers from a patent illegality. The exercise of discretion by the learned Single Judge, not to interfere in the matter, does not suffer from any such infirmity. We see no reason, therefore, to grant the relief sought for in the writ appeal.

The writ appeal fails and is, accordingly, dismissed. It is made clear that this order shall not preclude the appellant-writ petitioner from being considered, in future vacancies, in accordance with law. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(Dr. SHAMEEM AKTHER, J)

12th April, 2017

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