

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

WRIT PETITION No.44949 OF 2016

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, challenging the order passed by the Revenue Divisional Officer, Mulug, Bhupalpally Mandal, vide proceedings No.G/1179/2016, dated 27.08.2016.

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

3. The petitioner herein is Lotus Mahila Podupu Sangham, represented by its President Gaddam Ramya, which is a women self help group, consisting of 10 members, formed on 10.12.2015. A regularly appointed fair price shop dealer of shop No.8 of Pulluri Ramaiahpally Village, Bhupalpally Mandal, resigned from the dealership as he got selection as Junior Assistant in the Office of the TSGENCO. Based on the recommendations made by the Tahsildar, Bhupalpally, the Revenue Divisional Officer, Mulug/3rd respondent herein, vide proceedings No.G/386/2016, dated 06.04.2016, appointed the petitioner herein as a fair price shop dealer for the said shop, on temporary basis, for smooth distribution of the essential commodities, subject to the following conditions:

“1. This appointment is purely temporary basis and not confers any right at the time of filling up of the vacancy on regular basis or any.

2. If any deviation found in Public Distribution System the above will be punishable as per law and this appointment will be cancelled without assigning any prior notice to the individual concerned.

3. As per the Government Orders issued from the time to time, this appointment will be cancelled without assigning any prior notice to the individual concerned.”

4. One Sri Chiliveru Sarangapani, resident of Kundurupalli Village, Bhupalpalli Mandal, submitted a representation on 01.07.2016 to the Revenue Divisional Officer, requesting to consider his case for appointment as fair price shop dealer in respect of the subject shop. Thereupon, the Revenue Divisional Officer, Mulug, by way of an order vide proceedings Rc.No.G/1179/2016, dated 27.08.2016, addressed a letter to the Tahsildar, Bhupalpally, informing cancellation of the temporary authorization of the petitioner herein, while asking the Tahsildar to keep neighbouring fair shop dealer as in-charge dealer of the subject shop and to report compliance. The validity and legal sustainability of the said order, dated 27.08.2016, is the subject matter of the present writ petition.

5. According to the learned counsel for the petitioner, the said action on the part of the Revenue Divisional Officer/3rd respondent herein is highly illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India. It is further contended by learned counsel for the petitioner that the impugned order is also not in consonance with the object of the Control Order, 2008 and in the absence of any violation of conditions in the appointment order, dated 06.04.2016, there is no justification on the part of the respondents in cancelling the temporary authorization of the petitioner. According to the learned counsel for the petitioner, the impugned action is also in contravention of the principles of the

natural justice as the impugned action was not preceded by any show cause notice and opportunity of hearing the petitioner.

6. On the contrary, it is vehemently contended by learned Government Pleader that the petitioner herein is only a temporary dealer and has no vested right to assail the impugned order.

7. The information available before this Court manifestly discloses that on submission of resignation by the regular authorized dealer, the Tahsildar, Bhupalpally, made a request to the Revenue Divisional Officer, Mulug to consider the case of the petitioner for appointment as fair price shop dealer for the subject shop on temporary basis, obviously, for smooth distribution of the essential commodities. There is also no controversy on the reality that the Revenue Divisional Officer issued the temporary appointment in favour of the petitioner, subject to certain conditions prescribed therein. It is also not the case of the respondents that there are complaints against the petitioner herein, touching the distribution of essential commodities. In the representation, dated 01.07.2016, submitted by one Sri Chiliveru Sarangapani, there is absolutely no reference to any allegations against the petitioner herein. In fact, in the said representation, the said individual requested the Revenue Divisional Officer to remove the petitioner and to appoint him in the said vacancy.

8. A perusal of the order under challenge, in vivid and candid terms, discloses that the basis for cancellation of the temporary authorization granted in favour of the petitioner is not the violation of any conditions as prescribed in the appointment order, dated

06.04.2016. It is also not the case of the respondents that they are taking steps to appoint the fair price shop dealer on regular basis.

9. It is also required to be noticed that the neighbouring fair price shop dealer is made in-charge of the subject shop. In view of the above reasons, having regard to the material available before the Court, this Court is of the considered opinion that there is absolutely no justification on the part of the respondents in cancelling the authorization of the petitioner herein, in the absence of any violation of the conditions in the appointment order.

10. For the aforesaid reasons, the Writ Petition is allowed, setting aside the order vide proceedings No.G/1179/2016, dated, 27.08.2016, and consequently, the respondents are directed to continue the petitioner as a fair price shop dealer till a regular appointment is made in respect of the subject shop.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

MARCH 02, 2017
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A.V.SESHA SAI, J

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Date: 02.03.2017

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