

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

WRIT PETITION No.2329 OF 2017

ORDER:

This writ petition, filed under Article 226 of the Constitution of India, challenges the action of the Joint Collector, Ongole, Prakasam District – 2nd respondent herein, in refusing to suspend the proceedings bearing R.C.I/3052/2016, dated 17.12.2016, issued by the Revenue Divisional Officer, Ongole, Prakasam District.

2. Heard Sri I.Koti Reddy, learned counsel for the petitioner and learned Government Pleader for Civil Supplies (AP) for the respondents.

3. Petitioner herein belongs to Scheduled Caste community and her husband, late Sri A.Koteswara Rao, while working as a fair price shop dealer of shop No.47 of Gudipudivaripalem Village, Praksam District, passed away on 26.04.2016. After the death of her husband, petitioner herein submitted a representation dated 26.05.2016, to the respondents 3 and 4, requesting to appoint her as fair price shop dealer in the place of her husband on compassionate grounds.

4. Responding to the said representation, the 3rd respondent herein, vide proceedings dated 23.07.2016, appointed the petitioner herein as fair price shop dealer.

On the ground that the petitioner herein produced a fake 8th Class Transfer Certificate, an enquiry was initiated against the petitioner herein and eventually, the Revenue Divisional Officer, Ongole, vide proceedings R.C.I/3052/2016, dated 17.12.2016, cancelled the authorization of the petitioner herein. Assailing the said order of cancellation, petitioner herein filed a statutory appeal before the Collector (C.S) – 2nd respondent herein, on 28.12.2016. Along with the said appeal, petitioner herein also filed a stay petition seeking stay the order of cancellation passed by the Revenue Divisional Officer. The 2nd respondent, vide proceedings Rc.CS2/2/2017, dated 11.01.2017, while taking on file the said appeal and the stay petition filed by the petitioner herein, directed the Revenue Divisional Officer, Ongole, to send the record for holding enquiry and to take further action in the matter.

5. In the above background, complaining the said action of not granting stay as sought as illegal, arbitrary and unreasonable, the present writ petition has been filed.

6. According to the learned counsel for the petitioner, the action impugned is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution of India. It is further submitted that the qualification required for holding the authorization is 10th class and the petitioner herein does not possess the said qualification and according to G.O.Ms.No.4, Consumer Affairs, Food and Civil Supplies

(CS-1) Department, dated 28.02.2014, there can be exemption of the said prescribed educational qualification for a period of three years from the date of appointment and the respondents herein also appointed the petitioner in relaxation of the said qualification in accordance with the said governmental order. It is further submitted that the petitioner herein did not produce any sort of certificate much less the certificate alleged to have been submitted and to substantiate the said stand, the learned counsel for the petitioner seeks to place reliance on the report of the Revenue Inspector, which shows that the applicant did not produce any sort of certificates in support of her educational qualifications.

7. On the contrary, learned Government Pleader argued strenuously that since the appeal and the stay petition are pending consideration before the appellate authority, it is not open for the petitioner herein to maintain the present writ petition under Article 226 of the Constitution of India.

8. Having entertained the appeal and having taken on record the appeal and the stay petition, this Court is of the considered opinion that there is absolutely no justification on the part of the Joint Collector in not passing any orders on the stay petition. There is absolutely no dispute as regards the reality that as on the date, the petitioner herein is operating fair price shop.

9. Having regard to the submissions made by the learned counsel for the petitioner and learned Government Pleader, this Court is of the considered opinion that the ends of justice would be served, if the 2nd respondent is directed to pass appropriate orders on the appeal dated 28.12.2016, filed by the petitioner herein, by fixing some timeframe and by keeping the order of cancellation in abeyance in the meanwhile.

10. For the aforesaid reasons, the writ petition is disposed of, directing the 2nd respondent herein, to pass appropriate orders on the appeal dated 28.12.2016, filed by the petitioner herein against the order of cancellation passed by the Revenue Divisional Officer, vide proceedings R.C.I/3052/2016, dated 17.12.2016, within a period of three months from the date of receipt of a copy of this order. Till such exercise attains finality, the order of cancellation of authorization, passed by the Revenue Divisional Officer, vide proceedings R.C.I/3052/2016, dated 17.12.2016, shall remain suspended.

11. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

24.01.2017
SS

Note: issue C.C. in three days.
B/o.SS