

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.41872 OF 2017

ORDER

This writ petition is filed for a writ of mandamus declaring the action of respondents in notifying fair price shop No.91 in Gopapuram village in Bapatla Mandal, Guntur District as vacancy in spite of petitioner holding regular authorization of the said shop, as illegal and arbitrary.

The case of the petitioner is that pursuant to notification dated 11.04.2011, issued by the 4th respondent – Revenue Divisional Officer, she appeared for the process of selection for appointment as dealer for the subject fair price shop. In the said selection one Gadde Nagamani was appointed as dealer. Questioning the said selection, petitioner filed appeal in ACD.Dis.No.7/2012-J7 on the file of 3rd respondent – Joint Collector and the same was allowed on 5.10.2012, by setting the appointment of Gade Nagamani and the petitioner was directed to be appointed as dealer for the subject fair price shop and accordingly she was appointed and distributing the commodities. The grievance of the petitioner is that on 18.10.2017 the respondent issued paper notification for appointment of dealer to the subject fair price shop, to which the petitioner has already been appointed and working. Aggrieved by the same, the present writ petition is filed.

Heard the learned counsel for the petitioner.

The learned Government Pleader for Civil Supplies by producing copy of written instructions, submitted that against the order of the 3rd respondent dated 5.10.2012 in ACD.Dis.No.7/2012-S7, one Smt. Gadde

Naga Siva, filed revision. In the said revision, the petitioner was arrayed as 2nd respondent. The revisional authority – District Collector, by order dated 1.6.2013, set aside the order dated 5.10.2012 and directed the 4th respondent – Revenue Divisional Officer to fill up the subject fair price shop by treating it as a clear vacancy which arose due to the death of the dealer, by following the procedure in vogue. Therefore, he submits that in the light of the order of the revisional authority dated 1.6.2013, the writ petition is not maintainable.

From a perusal of the order dated 1.6.2013 in Revisional Case No.10/2012-S7 passed by the 2nd respondent – District Collector, it could be seen that petitioner participated in the revision and the said order was passed conforming to the principles of natural justice. The petitioner has limited the averments in the writ affidavit only to the extent of filing appeal before the 3rd respondent and passing of order in her favour. Being a party to the revisional proceedings, she did not bring to the notice of this court about the order passed by the revisional authority dated 1.6.2013. This amounts to suppression of fact. Further vide proceedings dated 19.02.2015 of the 5th respondent – Tahsildar, the petitioner was appointed as in-charge of the subject fair price shop. It is not known how the 5th respondent could appoint the petitioner as in-charge dealer for the subject fair price shop, when the revisional authority set aside the order in her favour. The petitioner has not made out any case on merits.

In view of above facts and circumstances the writ petition is liable to be dismissed and accordingly dismissed with costs of Rs.5,000/- (Rupees five thousand only) payable to the Andhra Pradesh Legal Services Authority.

However, it is open to the petitioner to participate in the selection process pursuant to notification dated 18.10.2017.

Miscellaneous petitions pending if any, shall stand closed.

A.RAJAHEKER REDDY,J

DATE:18—12—2017

AVS

