

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.2320 & 2347 OF 2018

DATED : 29.01.2018

W.P.No.2320 of 2018

Between :

Muvvala Venkata Narasimha Rao S/o.Late Subba Rao,
Aged about 40 yrs, Occu : Permanent FP Shop,
Dealer, Shop No.0982033,
R/o.Sikharamvari Street, Nellore Mandal,
SPSR Nellore District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Department of Civil Supplies, Secretariat,
Velagapudi, Amaravathi, Guntur district, & others.

.. Respondents

W.P.No.2347 of 2018

Chinni Narayana S/o.Late Ch.Subbaiah,
Aged about 65 yrs, Occu : Permanent FP Shop,
Dealer, Shop No.0982041,
R/o.Kotamitta, Nellore Town & Mandal,
SPSR Nellore District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Department of Civil Supplies, Secretariat,
Velagapudi, Amaravathi, Guntur district, & others.

.. Respondents

This court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO
WRIT PETITION Nos.2320 & 2347 OF 2018

COMMON ORDER :

Heard. With the consent of counsel, these writ petitions are disposed of at the admission stage.

2. These two writ petitions are filed challenging order dated 12.01.2018 of the Joint Collector, Nellore, on entertaining appeals preferred by the Tahsildar against decision of Revenue Divisional Officer (RDO), Nellore.

3. Petitioners are fair price shop dealers. Disciplinary action was initiated against the petitioners on the allegation of illegalities committed by them in operating fair price shops. The RDO being the original authority took lenient and imposed only fine of Rs.7000/-. Aggrieved thereby the Tahsildar preferred appeal to the Joint Collector. Both appeals were allowed by the orders impugned in these two writ petitions.

4. Learned counsel for petitioners made two submissions:

(i) The Tahsildar is not ***'the person aggrieved'***, as required by Standing Order 20 of Andhra Pradesh State Distribution System (Control) Order, 2008 and therefore, not competent to prefer appeal.

(ii) That Standing Order 20 prescribes limitation of 30 days to prefer appeal. Whereas, appeals were not preferred within the time prescribed.

5. According to learned counsel for the petitioners, no power is vested in the Joint Collector to entertain the appeals filed beyond the period of limitation and has no power to condone the delay.

Whereas, in the instant case, delay was condoned, and appeals were considered on merits.

6. With reference to the contention of limitation to prefer appeal, learned Government Pleader, on instructions, fairly submits that appeals were not preferred within 30 days as prescribed in Standing Order 20 (2) and the appeal could not have been entertained.

7. In view of the fair submission of learned Government Pleader, the Court is not going into other issues agitated by the petitioners in these writ petitions and the writ petitions are liable to be allowed on the sole ground that the Joint Collector erred in entertaining appeal preferred after 30 days. Accordingly, the writ petitions are allowed.

8. At this stage, learned Government Pleader submits that under clause 5 (15) of Standing Orders *suo-moto* review power is available to the District Collector/Collector (CS) who is Joint Collector of the District.

9. Taking note of the said submission, it is made clear that the Court has not expressed any opinion on the said aspect. If the Standing Orders permit, it is open to the competent authority to exercise such power. However, it is also open to the petitioners to raise all objections as available in law, if such provision is invoked. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in these writ petitions shall stand closed.

P.NAVEEN RAO,J

29th January, 2018
Rds