

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 8339 OF 2018

ORDER :

Petitioner challenges the order dated 02.11.2017 passed by the 4th respondent Sub-Collector, Madanapalle placing the authorisation of the petitioner to run fair price shop No. 1033009, Valmikipuram Town and Mandal under suspension.

The case of the petitioner is that she was appointed as a fair price shop dealer in respect of the subject shop *vide* proceedings, dated 22.02.1994. While the things stood thus, the 4th respondent had issued a show cause notice dated 19.09.2017 framing four charges against the petitioner, for which, explanation was submitted to the respondent authorities. Dissatisfied, the 4th respondent had served the impugned order, suspending the authorisation of the petitioner.

Heard learned counsel for the petitioner as well as learned Government Pleader for Civil Supplies (Andhra Pradesh).

As is evident from the material placed on record, four charges have been levelled against the petitioner, of which, the 1st charge is that she married a Secondary Grade Teacher working in Government M.P.P. School, Valmikipuram Mandal and thus, violated the guideline 12(iii) as per G.O.Ms.No. 4, dated 19.02.2011, as amended by G.O.Ms.No. 12, dated 06.03.2012 and as per Commissioner of Civil Supplies, A.P., Hyderabad, dated 03.07.2014. In the explanation submitted by the petitioner, it is stated that she came to be appointed as a dealer in 1994, whereas her marriage with Sri Siddaiah, who is a school teacher, took place in 2000. Hence, it cannot be said that she violated guideline 12(iii) of the Guidelines for Selection and Appointment Etc. of Fair Price

Shop Dealers under Andhra Pradesh State Public Distribution System (Control) Order, 2008.

In this context, guideline 12(iii) is extracted as under:

“Close relatives of the employees of the Implementing / Enforcing Departments of Public Distribution System such as Civil Supplies, Revenue, Vigilance & Enforcement, Police, Legal Metrology, Judiciary Departments, Quality Control Cell of GOI etc.; User Departments such as School Education (Primary), Social Welfare, Backward Classes Welfare, Tribal Welfare, Minorities Welfare, Women Development & Child Welfare Departments, Residential Schools, Govt. it is, Military, NCC etc., Civil Supplies Corporation shall not be appointed as Fair Price Shop Dealers; there shall, however, be no objection to appoint family members or relatives of employees working on contractual basis on consolidated pay like Anganwadi teachers, ANMs, Asha Workers, Vidya Volunteers, outsourcing employees etc.”

A careful perusal of guideline 12(iii), on which reliance has been placed, does not support the case of the respondents and the petitioner cannot be said to have earned disqualification, for, the ineligibility / disqualification that is required to be considered is at the time of appointment, but not at a later point of time. Inasmuch as the petitioner's marriage took place in 2000, whereas her appointment was in 1994, one cannot say that she was ineligible to be appointed in 1994. In those circumstances, it can be said that charge No.1 has no basis.

Insofar as charges 2 and 3 are concerned, it is alleged that the fair price shop is being run by a benami person. In this regard, the petitioner submitted that Sri N. Chandrasekhar, who is none other than her own brother, has been assisting her in discharge of her duties. Here it is to be seen that an amendment has been brought to G.O.Ms.No. 4, dated 19.02.2011, by way of G.O.Ms.No. 16, Consumer Affairs, Food and Civil Supplies (CS-I) Department, dated 17.06.2013, whereunder a fair price shop dealer was given the facility of availing support of the family members specified

therein in discharge of his / her duties as such. In those circumstances, there is no merit in charges 2 and 3 also.

However, as regards charge No.4, which is a serious one, while the respondent authority had recorded a finding that there is a shortfall of 172.69 Kgs. of PDS rice and 1 Kg. of sugar, learned counsel for the petitioner asserts that there is no variation in the stocks.

Since this is a question of fact, which requires to be decided on appreciation of facts of the matter, and also in view of the fact that against the order of suspension, there is a remedy of appeal available, so far as charge No.4 is concerned, it is directed that the petitioner shall avail the remedy of appeal.

The Writ Petition is accordingly, disposed of. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

16th March 2018

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CHALLA KODANDA RAM, J