

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

Writ Petition No.15388 of 2011

ORDER:

The relief sought for in this Writ Petition is to declare the action of respondents 2 and 3 in appointing the 5th respondent as a fair price shop dealer vide proceedings dated 07.06.2010, and in confirming the same by proceedings dated 28.03.2011, as arbitrary, illegal and as contrary to the notification issued on 18.05.2010.

It is the petitioner's case that the fair price shop was to be allotted under the open category; 12 applications were submitted, including those by the petitioner and the 5th respondent, for appointment as a fair price shop dealer; the petitioner and the 5th respondent appeared for interview on 07.06.2010; and as the 5th respondent was aged 46 years, and the notification required applicants to be in the age group of 18 to 40 years, the 5th respondent was disqualified from applying for appointment in view of her age.

The petitioner filed W.P.No.17363 of 2010, which was dismissed on 21.07.2010 holding that she had an alternative remedy of an appeal to the Joint Collector. While the Joint Collector, by order dated 01.11.2010, set aside the order appointing the 5th respondent as a fair price shop dealer, the revision preferred thereagainst by the 5th respondent was allowed by the District Collector by his order dated 28.03.2011.

In his order dated 28.03.2011, the District Collector observed that the socio-economic status of the 5th respondent was far worse than that of the petitioner; the 5th respondent belonged to the Scheduled Caste; she had lost her husband in an accident, leaving behind her and her children without any means of livelihood; the husband of the 5th

respondent was working as a fair price shop dealer on the date of his death, and his entire family was dependant on the meagre income he received from the fair price shop; the petitioner was also not a resident of the area as on that date; her husband was a private employee at Hyderabad; her family had Ac.7.29 acres of land; and, further, the 5th respondent was awarded 60 marks, more than all the other candidates. In such circumstances, appointment of the 5th respondent as a fair price shop dealer was up-held, on humanitarian grounds duly relaxing the upper age limit of 40 years.

While the Writ Petition was, no doubt, admitted on 05.07.2011, no interim order was passed therein. It is evident, therefore, that, for the past 5½ years, the 5th respondent has been operating the subject fair price shop. The jurisdiction which this Court exercises, under Article 226 of the Constitution of India, is discretionary; and, save substantial injustice, no interference is called for. While it does appear that the 5th respondent was over-aged when she was appointed as a fair price shop dealer, the District Collector on, humanitarian grounds considering her poor economic background, she belonged to the Scheduled Castes, and had no other source of livelihood to support her children, upheld her appointment relaxing the upper age limit of 40 years. I see no reason, at this length of time, to interfere with the order of the District Collector, more so, as it does appear that the petitioner is from a far more affluent family than the 5th respondent.

The Writ Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ.

Date:09.02.2018.

cs