

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.4689 OF 2016

Date:20.12.2018

Between:

Smt. Rakoti Gouramma, W/o. Tella Surya
Rao, aged about 35 years, Occ: Fair Price Shop
Dealer (Us.), R/o. Teurkapeta Depot,
Amadalavalasa Mandal, Srikakulam District .. Petitioner

And

The State of Andhra Pradesh, rep., by
its Principal Secretary, Civil Supplies,
Secretariat, Hyderabad and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.4689 OF 2016

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Civil Supplies for respondents 1 to 4 and learned counsel for the impleaded respondent No.5.

2. The Fair Price Shop dealership authorization granted in favour of the petitioner was cancelled by the order impugned dated 02.06.2015. The initiation of proceedings against the petitioner resulting in cancellation of Fair Price Shop authorization was the complaint filed by the 5th respondent, alleging that the petitioner is not residing in the village and is running Fair Price Shop with benami holder and the same is in violation of the terms of the dealership authorization. On thorough enquiry, the 2nd respondent issued the impugned proceedings cancelling the authorization holding that the petitioner has violated the terms of authorization granted to her.

3. However, against the order cancelling the authorization, remedy of appeal is provided under the provisions of the Andhra Pradesh State Targeted Public Distribution System (Control), Order, 2018 (for short, 'the Control Order, 2018'). As per the old Control Order, appeal was maintainable before the Joint Collector, but in super cession of the earlier Control Order, new Control Order was notified vide G.O.Ms.No.15, dated 01.08.2018, and as per Control Order No.24, appeal should be preferred before the District Collector within 30 days and on filing the appeal, the appellate authority shall dispose of the same within 60 days.

4. Without availing the said remedy, the petitioner filed this Writ Petition primarily contending that the decision holding that she is not residing in the village is erroneous. However, this question of fact cannot be gone into in a Writ Petition filed under Article 226 of the Constitution of India. Since the petitioner has an effective and efficacious remedy of appeal under the Control Order, 2018, the Court is not inclined to keep the Writ Petition pending.

5. The Writ Petition is accordingly disposed of leaving it open to the petitioner to avail the remedy of appeal provided under the Control Order, 2018. If an appeal is preferred by the petitioner within 15 days from today, the appellate authority shall consider the same and pass appropriate orders within six weeks thereafter after putting the 5th respondent on notice and giving him an opportunity of hearing. As the petitioner is enjoying the interim order since 15.02.2016, subject to preferring the appeal within 15 days, as directed above, the interim order shall continue to operate till final orders are passed by the appellate authority. There shall be no order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:20.12.2018

KH