

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

WRIT PETITION No.40710 of 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the order dated 24.9.2016 in Ref.No.I(3)/1634/2016 passed by the second respondent-the District Collector (Civil Supplies), YSR Kadapa District, confirming the orders passed by respondent Nos.3 and 4-the Joint Collector, and the Revenue Divisional Officer, Jammalamadugu Revenue Division, YSR Kadapa District, dated 31.5.2016 and 08.4.2015 respectively, cancelling the selection of the petitioner as Fair Price Shop dealer, as illegal and arbitrary.

2. The facts leading to filing of the present writ petition are briefly as follows: On 10.1.2015, the fourth respondent issued Notification in Ref.No.B/28/2015, calling for the applications from the individuals for appointment as Fair Price Shop dealers in Pulivendula Revenue Village. In pursuance of the said Notification, the petitioner submitted application in respect of Shop No.1 of Thonduru Village and Mandal. The petitioner was provisionally selected as Fair Price Shop dealer after following the due procedure. The fourth respondent called for the antecedents of the petitioner from the Office of the Superintendent of Police. Basing on the antecedents, the fourth respondent passed orders in Ref.No.B/28/Thondur/2015, dated 08.4.2015, cancelling the provisional selection of the petitioner as Fair Price Shop dealer. The petitioner challenged the same before the third respondent by way of appeal in Ref.No.I(3)/1143/2015. The third respondent, after affording reasonable opportunity to the petitioner and

perusing the material available on record, arrived at a conclusion that the appellant involved in illegal activities and dismissed the appeal. Aggrieved by the same, the petitioner filed revision before the second respondent in Ref.No.I(3)/1634/2016. The second respondent, after hearing the petitioner and considering the material available on record, passed the orders on 24.9.2016 dismissing the revision, by confirming the orders passed by the third respondent. Feeling aggrieved by the orders of the second respondent, the present writ petition is filed.

3. The contention of learned counsel for the petitioner is two fold: (1) non-registration of criminal case against the petitioner himself indicates that he did not involve in any criminal activity; and (2) the competent authority failed to consider that the petitioner himself voluntarily resigned to the post of Home Guard. **Per contra**, learned Government Pleader for Civil Supplies strenuously submitted that the petitioner failed to prove that he voluntarily resigned to the post of Home Guard. He further submitted that the fourth respondent gave a specific finding in the order dated 08.4.2015 that the petitioner was removed from service as Home Guard for encouraging illegal activities, and the said finding was confirmed by the third respondent in the appeal and second respondent in the revision. He further submitted that the Authorities have assigned reasons much less cogent reasons to their findings; therefore, it is not a fit case to exercise the jurisdiction under Article 226 of Constitution of India.

4. It is not in dispute that the petitioner was declared as selected as Fair Price Shop dealer in respect of Shop No.1 of

Thondur Village. It is a matter of common knowledge that before issuing appointment order, the concerned Authority will call for the antecedents of the selected candidates in order to ascertain the background of the incumbents. In this case also, the fourth respondent called for the antecedents of the petitioner from the Superintendent of Police, YSR Kadapa. As per the certificate issued by the Station House Officer, Yerraguntla Police Station, the petitioner worked as Home Guard from 1999 to 2002 and he was caught while abetting Matka and Gambling. As per the certificate issued by the Sub-Inspector of Police, Pulivendula Police Station, the petitioner was removed from service as Home Guard as he encouraged illegal activities and involved in anti-social activities. A perusal of the record reveals that the petitioner encouraged Matka and Gambling businesses, while working as Home Guard. Mere non-registration of criminal case by itself is not a valid ground to discard the report submitted by the Office of the Superintendent of Police.

5. It is the case of the petitioner that he himself voluntarily resigned to the post of Home Guard. Whether the petitioner resigned or was removed from service is purely a question of fact.

6. As per the antecedents' report, the petitioner was removed from service as he was involved in criminal activities. The record reveals that while hearing the revision, the second respondent directed the petitioner to produce any document to establish his stand. The second respondent called for the records from the third respondent and the fourth respondent. The finding of the fourth respondent is that the petitioner was involved in criminal activities

i.e., encouraging Matka and Gambling businesses. The said fact was confirmed by the third respondent in the appeal. The second respondent, after perusing the orders of the respondent Nos.4 and 3 and the material available on record, confirmed the findings recorded by respondent Nos.3 and 4.

7. The material available on record clinchingly establishes that the petitioner worked as Home Guard from 1999 to 2002 and he was removed from service for encouraging illegal activities. It is a known fact that in the Villages, womenfolk will come to the fair price shops to receive the ration. If this type of persons are appointed as Fair Price Shop dealers, it is nothing short of sending a wrong signal to the society. The petitioner did not challenge the order removing him from service as Home Guard, on the ground that he was encouraging illegal activities. The said finding became final in view of non-challenging of the same by the petitioner. Mere selection of the petitioner as Fair Price Shop dealer would not create any vested right in him to appoint as Fair Price shop dealer. I am fully endorsing the findings recorded by the respondent Nos.3 and 4 on this aspect.

8. Having regard to the facts and circumstances of the case, this Court is of considered view that the petitioner is not entitled to be appointed as Fair Price Shop dealer. There are no grounds much less valid grounds to interfere with the impugned order passed by the second respondent. The writ petition lacks merits and bona fides.

9. Accordingly, the writ petition is dismissed, the order dated 24.9.2016 in Ref.No.I(3)/1634/2016 passed by the second respondent. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

T.SUNIL CHOWDARY, J

April 19, 2018
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