

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 46192 of 2018

Date : 31.12.2018

Between:

Smt Yeluru Lakshamma

W/o Rapuri Ravi Aged about 45 years Occ FP Shop Dealer Of Shop No 1

R/o Mangalam Palem Buchireddipalem Mandal SPSR Nellore District

Andhra Pradesh State

Petitioner

And

State of Andhra Pradesh

represented by its Secretary Consumer Affairs and Civil Supplies

Department Secretariat Buildings Velagapudi Guntur District

Respondents



The Court made the following:

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ORAL ORDER:

Heard Sri K Srinivas, learned counsel for petitioners, learned Government Pleader for Civil Supplies for respondents 1 and 2 and learned Government Pleader for Revenue for respondents 3 and 4.

2. Petitioners are granted fair price shop dealership authorization to Shop Nos. 1, 4 and 5 of Buchireddivaripalem mandal, SPSR Nellore district. It is a mandal headquarters. Their authorization is valid till 31.3.2020. In this writ petition, petitioners challenge notification dated 21.11.2018 whereby applications are called for enlistment of persons to grant authorization. Out of six locations indicated in the notification, three are newly formed by carving out from shops authorized to petitioners.

3. Learned counsel for petitioners would submit that competent authority to take decision to bifurcate fair price shops and create new shops is the District Collector, whereas, impugned decision is taken by the District Collector (CS)/ Joint Collector and therefore is illegal.

3.1 According to learned counsel for petitioners before creating a new shop in the same area where a shop is existing, the dealer must be put on notice and he be provided opportunity of hearing as reduction of cards would adversely affect him, whereas, no such procedure was followed.

3.2. He would further submit that as per the norms prescribed in G.O. Ms.No. 35 dated 17.9.2017 there must be a clear distance of one Kilometer between two fair price shops, whereas, the same is not maintained.

3.3. According to learned counsel, as per G O Ms No. 35 dated 17.9.2007 in mandal headquarters a fair price shop dealership should

have minimum of 500 Below Poverty Line (for short BPL) cards and 250 Pink Cards. Thus, unless, there are more than 1500 cards to a dealership, no new dealership can be established. For shop No. 4 of second petitioner, total cards are 1355 and in respect of shop No. 5 total cards are 1404 and therefore in those centers new shops cannot be established.

3.4 He would further submit that individual notification has to be issued to each shop and principle of reservation is not properly followed. According to learned counsel in the earlier notification against petitioners shops reservation points are different from present notification. In support of his contentions, he placed reliance on the decision of this Court in **Vikram Simha Reddy Vs Government of A.P.**¹

4. Based on the instructions, learned Government Pleader would submit that after following detailed procedure, orders were issued by the competent authority creating new fair price shops and the impugned notification is issued based on said orders.

4.1 According to learned Government Pleader there are no pink cards. All the dealerships were allotted only BPL cards. As per norms prescribed in G O Ms No. 35 dated 17.9.2007 a shop can have a minimum of 500 cards. In these three shops there are more than 1400 cards and petitioners are retained more ration cards than the cards allotted to new shops.

4.2. Learned Government Pleader would submit that 100 point roster is prescribed to apply reservation in allotting fair price shops and this principle is strictly followed. He would submit that there is no requirement to issue individual notification to each of the shops.

5. First, dealing with the contention that reservation principle is not followed, it is appropriate to note that petitioners herein are

¹ 2012 (2) ALT 693

existing fair price shop dealers and they are not competing to grant authorization to newly created shops which were established by diverting cards earlier allotted to them.

6. Coming to the contention of the learned counsel for petitioner that the competent authority has not taken decision to bifurcate the fair price shops and without such a decision, notification to select new dealers cannot be issued, during the course of hearing proceedings of Collector and District Magistrate dated 31.7.2018 were placed before the Court. Reading of the said proceedings would show that District Vigilance Committee considered the proposals for bifurcation of the existing fair price shops submitted by Revenue Divisional Officers and approved the proposals. Consequently, the District Collector issued above orders creating new fair price shops by diverting the cards from the existing dealers. It is thus clear that only after a decision was taken to create new shops, the impugned notification is issued.

7. It is next contended by the learned counsel for petitioners that as per the norms prescribed in G O Ms No. 35 dated 17.9.2017, there should be 750 cards to each fair price shop whereas for these petitioners the total number of cards are approximately 1400 or less and therefore the 750 norm cannot be achieved for second shop sought to be created. Paragraph 6 of G O Ms No. 35 dated 17.9.2017 prescribes various norms to be observed for rationalization of fair price shops. According to Clause IV, for mandal headquarters minimum of 500 BPL cards and 250 pink cards should be allotted. As submitted by learned Government Pleader, which is not disputed by learned counsel for petitioners, there are no more pink cards and only BPL cards are in circulation. Minimum BPL cards prescribed for mandal headquarters is 500. As can be seen from the table appended to the proceedings of

District Collector and the proposal submitted by the Collector (CS) dated 18.8.2017 enclosed as Ex.P-4 to the writ petition paper book, for shop No.1 the number of cards are 1529, and 909 cards are retained with the existing dealer; for shop No.3 total number of cards are 1765, and 935 cards are retained with the existing dealer and 830 are allotted to the proposed dealer; for shop No. 4 total cards are 1355, and 750 cards are retained with existing dealer and 590 are allotted to proposed dealer; for shop No.5 total cards are 1404, and 799 cards are retained and 605 cards are allotted to proposed dealer. Thus, in so far as, petitioners are concerned, ration cards allotted are far above the norms prescribed in G.O.Ms.No.35 dated 17.9.2017. Petitioners cannot complaint of allocation of less number of cards to proposed dealer. At any rate, even for the proposed dealer, number of cards diverted from the petitioners' dealerships are above the minimum cards prescribed for shops in mandal headquarters as per G O Ms NO. 35 dated 17.9.2017.

8. It was next contended that there should not be second fair price shop within one kilometer radius of the residences of the card holders. Reliance is placed on paragraph 6 -II. It is not very clear from the reading of said paragraph that there should not be more than one fair price shop within one kilometer radius. However, such norm cannot be insisted when it is thickly populated area like mandal headquarters. It appears from the material on record that number of card holders are many and new ration shops are established in all the wards of the mandal headquarters. Further, it is only for the convenience of the card holders the limitation of one kilometer is prescribed. The main aim to establish fair price shops is to ensure that the needy people get the essential commodities without any hassles. It is not a business venture for the petitioners to contend that there should not be a second fair price shop within a radius of one kilometer. Further more, the guidelines are

formulated in the year 2007. There may be many fold increase of card holders in localities. As can be seen from the statement of number of cards allotted to various fair price shops, they were many and would certainly cause inconvenience to card holders in securing essential commodities when large number of cards are allotted to one shop. Thus, establishment of fair price shops would only to make it more convenient to card holders to reach the shops and secure their essential commodities without hassles and without spending much of time.

9. I, therefore, see no illegality in the impugned notification. Writ Petition is accordingly dismissed. Miscellaneous petitions, if any pending, are closed.

DATE: 31-12-2018
TVK

P NAVEEN RAO,J



HONOURABLE SRI JUSTICE P. NAVEEN RAO



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