

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.28847 of 2009

ORDER:

The petitioner challenges the order dated 04.12.2009 passed by respondent No.1-District Collector, confirming the orders dated 23.05.2009 passed by the Joint Collector in the appeal, in turn confirming the orders dated 31.05.2007 passed by the Revenue Divisional Officer, cancelling the authorization granted in favour of the petitioner on the ground that the petitioner violated the terms of G.O.Ms.No.52 dated 18.12.2008 issued under A.P. State Public Distribution System (Control) Order, 2001.

Heard Sri C. Ramesh Sagar, learned counsel for the petitioner, and learned Government Pleader for Civil Supplies.

The petitioner's authorization was cancelled on two grounds; (1) the petitioner was involved in a criminal case under SCs & STs (POA) Act; and (2) the petitioner is not residing in the village, and it is the brother of petitioner who is attending to the functions of Fair Price Shop dealership.

Detailed explanation was submitted by the petitioner, which was not accepted by the Revenue Divisional Officer. In the appeal before the Joint Collector, it was pointed out that the learned Sessions Judge acquitted the petitioner in Criminal Case No.857 of 2005.

The appellate authority, except referring to the fact that the petitioner was acquitted, did not deal with the consequences of acquittal. However, by making a reference to the other ground that the petitioner is not residing in the village, confirmed the cancellation order passed by the original authority/Revenue Divisional Officer.

The revision authority also followed suit. Essentially, a perusal of the orders passed by both the appellate authority as well as the revision authority do not disclose the specific assertion of the petitioner that, on account of ill health for a short period, particularly, at the relevant point of time when the inspection took place, his brother was attending to the Fair Price shop so as not to cause inconvenience to the public. This aspect of the matter was not at all considered by either of the authorities. As a matter of fact, the petitioner's specific case that he was unwell and that he was to be admitted in the hospital, was brushed aside observing that the petitioner came to be admitted in the hospital only on 02.06.2005.

Though the complaint was made against the petitioner on 27.04.2005, the reasoning adopted by the District Collector that an individual is required to be admitted into the hospital as soon as he falls ill, is somewhat ridiculous as hospitalization is normally the last resort. There are no other irregularities alleged against the petitioner.

In those circumstances, and considering the fact that the petitioner had been continuing to function as Fair Price Shop dealer under the interim orders of this Court, and the impugned order dated 04.12.2009 not being justifiable on any ground, the cancellation of authorization of

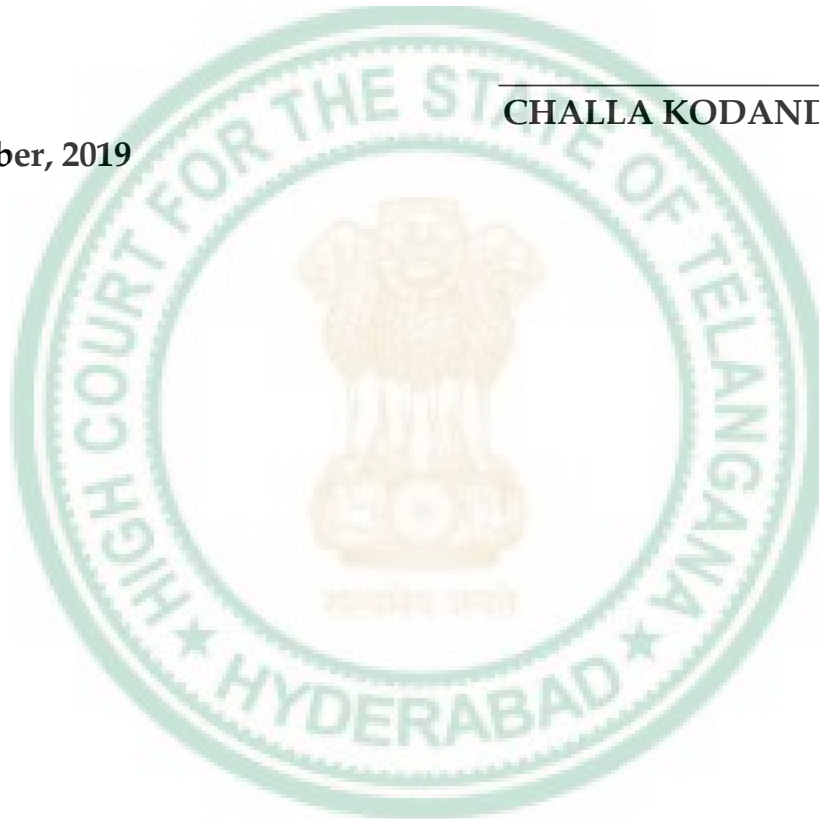
petitioner is unsustainable. Therefore, the cancellation orders dated 31.05.2007 passed by the Revenue Divisional Officer, as confirmed by the appellate and revision authorities, vide orders dated 23.05.2009 and 04.12.2009, respectively, are hereby set aside; and the petitioner is allowed to discharge the functions as Fair Price Shop dealer.

The writ petition is, accordingly, allowed. No costs. Miscellaneous petitions, if any pending, shall stand closed.

23rd October, 2019

CHALLA KODANDA RAM, J

KSM



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