

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

TUESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE T.MADHAVI DEVI

WRIT PETITION NO: 40638 OF 2022

Between:

The Karimnagar District Co-Operative Marketing Society Ltd., (DCMS), Fair Price Shop No. 2033205, Jammikunta, Represented by its Manager, Sheelam Srinivas Reddy S/o. Raja Reddy, Age. 50 Years.

...PETITIONER

AND

1. The State of Telangana, Represented by its Principal Secretary to the Consumer Affairs, Food and Civil Supplies Department, Secretariat Buildings, Hyderabad.
2. The Collector (CS), Karimnagar District, Karimnagar.
3. The Revenue Divisional Officer, Huzurabad Division, Huzurabad, Karimnagar District.
4. The Tahsildar, Jammikunta Mandal, Jammikunta Proper and Mandal, Karimnagar District.
5. Ellendula Rama (Strike off), W/o. Bhadraiah, Age. Major, Occ. Business, R/o. Jammikunta Village and Handal, Karimnagar District.

(Respondent No.5 is strike off as per C.O.dt. 27.03.2024 in IA No. 1/2024.)

6. Byrumalla Sandhya Rani, W/o Not known to the petitioner, Age. Major, Occ. Fair Price Shop Dealer, Shop No. 2033205, R/o. Jammikunta Village and Mandal, Karimnagar District. Respondent No.6 is impleaded as per C.O.dt. 27.03.2024 in IA No. 1/2024.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus or any other appropriate writ declaring the orders passed by the respondent No. 2 cancelling the authorisation of the petitioner fair price shop No. 2033205 of Jammikunta, through orders in Proc No. K/881/2022, dated 03/09/2022, without conducting any enquiry, without framing any charges, without giving any opportunity of hearing to the petitioner, consequent to it issuing notification dated 05/09/2022, calling for applications for appointment of fair price

shop dealer for the said fair price shop in pursuance of the said notification appointing the respondent No. 5 as fair price shop dealer, is nothing but violative principles of natural justice, arbitrary, illegal, null and void and also violative of Articles 14, 19 and 21 of the Constitution of India. Consequently set aside the same by directing the respondents No. 3 and 4 to supply the commodities to the petitioner fair price shop No. 2033205, Jammikunta Village and Mandal, Karimnagar District, enabling the petitioner to supply the same to the cardholders.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the orders passed by the respondent No. 2 in Proc No. K/881/2022, dated 03/09/2022, and consequential appointment of the respondent No. 5 as Fair Price Shop Dealer, thereby direct the respondents No. 3 and 4 to supply the commodities to the petitioners fair price shop No. 2033205, Jammikunta Village and Mandal, Karimnagar District.

Counsel for the Petitioner: SRI K.VENUMADHAV

Counsel for the Respondent Nos.1 TO 4: GP FOR CIVIL SUPPLIES

Counsel for the Respondent Nos.5 & 6: --

The Court made the following: ORDER

THE HONOURABLE SMT. JUSTICE T. MADHAVI DEVI

WRIT PETITION No.40638 OF 2022

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus or any other writ declaring the orders in Proc.No.K/881/2022 dated 03.09.2022 passed by respondent No.2 cancelling the authorization of the petitioner's fair price shop No.2033205 of Jammikunta, without conducting any enquiry, without framing any charges and without giving any opportunity of hearing to the petitioner as illegal and arbitrary and consequently to declare the notification dated 05.09.2022 calling for applications for appointment of the fair price shop dealer for the said fair price shop and appointment of respondent No.5 as dealer of the said fair price shop as illegal and arbitrary and consequently to set aside the same and direct respondents No.3 and 4 to supply the commodities to the petitioner's fair price shop No.2033205, Jammikunta Village and Mandal, Karimnagar District, to supply the same to the cardholders and to pass such other order or orders.

2. Brief facts leading to the filing of the present Writ Petition are that the petitioner is a society and it was granted dealership of fair

price Shop No.2033205 of Jammikunta Village. It is submitted that on 20.08.2012, respondent No.4 has registered a case under Section 6-A of the Essential Commodities Act, 1955 against the petitioner society, even though there were no irregularities or illegalities committed by the petitioner society and the stock which was available in the fair price shop was seized and respondent No.3 has suspended the authorization of the petitioner. Thereafter, respondent No.2 conducted the proceedings under Section 6-A of the Essential Commodities Act, 1955 and passed orders dated 30.08.2013 confiscating 20% of the seized stock in favour of the Government, which worked out to Rs.846/-. In the meantime, the commodities were distributed to the cardholders through interim arrangement. The petitioner approached respondent No.3 requesting to revoke the suspension order and respondent No.4 also recommended revocation of the suspension order *vide* proceedings dated 04.04.2014. It is submitted that, *vide* proceedings dated 03.09.2022, the authorization of the petitioner to run the said fair price shop has been cancelled and thereafter, the respondent authorities have issued a notification dated 05.09.2022 calling for applications for appointing the fair price shop dealer in said fair price shop No.2033205 of Jammikunta Village and

have appointed respondent No.5 as dealer of the said fair price shop. Challenging the cancellation order dated 03.09.2022 and notification dated 05.09.2022, the present Writ Petition has been filed.

3. The respondent authorities have filed a counter affidavit stating that a case under Section 6-A of the Essential Commodities Act, 1955 was booked against the petitioner in the year 2012 as it was reported that respondent No.4 along with MRI-I Jammikunta, VRO Jammikunta and Kanagarthi, proceeded to the fair price shop and the shop was found to be closed and the VRO has contacted the person one B. Sailu, who was running the fair price shop, and he opened the shop and on demand, produced the stock register, sales register and release orders for the month of August, 2012. It is further stated that on verification of the same, some variations were found in the stock and it was found that there was no closing balance for all essential commodities and the petitioner was not maintaining the timing prescribed by the Government and was not maintaining the records properly. In view thereof, the dealership of the petitioner was suspended and thereafter, a show cause notice was issued to the petitioner to submit its explanation as to why authorization should not be cancelled. It is submitted that subsequently, confiscation orders

under Section 6-A of the Essential Commodities Act 1955, were also passed and that the petitioner had submitted its explanation on 08.10.2012 stating that the variations found in the essential commodities are within the permissible limits and the signatures of the cardholders were not taken in the sales register due to rush of work. However, there was no explanation offered with regard to the lapses found and non-functioning of the fair price shop in the prescribed timings. It is stated that though no action was taken thereafter, the petitioner has filed the present writ petition after a lapse of 9½ years for allocation of the fair price shop in his favour without submitting any reasons for existing lapses and as to why it has not approached for revocation of suspension for a long time. It is stated that thereafter, respondent No.3 addressed a letter to respondent No.4 calling for a report with regard to the present status of the said fair price shop and accordingly, respondent No.4 submitted that the fair price shop is presently being operated with in-charge dealer Sri Garrepalli Venkateshwarlu. In view thereof, the authorization of the fair price shop was cancelled *vide* orders dated 03.09.2022 and notification was issued inviting applications from eligible candidates and as the fair price shop was reserved for General (Woman), one Smt. Bairumalla

Sandhyarani, who secured the highest marks in written tests and interview, was selected and not respondent No.5. It was further stated that the action of the respondent authorities in cancelling the authorization of the petitioner to run the fair price shop was justified.

4. *Vide* order dated 27.03.2024 in I.A.No.1 of 2024, respondent No.5 has been deleted from the array of respondents and proposed respondent No.6 has been impleaded in the Writ Petition.

5. The selected candidate, i.e., Bairumalla Sandhyarani, who was impleaded as respondent No.6, has also filed her counter affidavit stating that she was qualified in the written examination and secured the highest marks and therefore, her appointment as fair price shop dealer is justified.

6. Having regard to the rival contentions and the material on record, this Court finds that the petitioner society was suspended in the year 2012 and thereafter, even though no action has been taken by the respondents for cancellation of the authorization, the petitioner also has not approached the respondent authorities. It was only in the year 2022 that the petitioner had approached for revocation of the suspension order. The proceedings under Section 6-A of the Essential

Commodities Act, 1955, were also passed in the year 2012 and seized stock was disposed of in the open auction and the sale proceeds were remitted into the revenue deposits as per order under Section 6-A of the Essential Commodities Act, 1955. Therefore, it is evident that the petitioner society was not vigilant in pursuing its remedy and throughout the years, the in-charge dealer was dealing with the stock in the said fair price shop. Though the learned counsel for the petitioner has placed reliance upon the orders of this Court in case of *C. Durga Srinivas Rao and others v. State of Andhra Pradesh and other*¹ for the proposition that cancellation of the authorization of the fair price shop dealer without following due procedure is bad in law, this Court finds that in the above case, there was no delay in the petitioners approaching the Courts or the authorities. The learned counsel for the respondent authorities has relied upon the decision of the Division Bench of this Court in the case of *M. Vanaja v. B. Balaseshanna and others*² for the proposition that without hearing the affected party, i.e., respondent No.6 herein, no order should be passed. However, respondent No.6 is also represented before this Court. In

¹ 2015 LawSuit (Hyd) 560

² 2007 (4) ALD 388 (FB)

view of the fact that the writ petitioner was not vigilant and has not challenged the suspension order in spite of the lapse of nearly 9 years and has only challenged the cancellation order of 2022 after issuance of the authorization in favour of respondent No.6, this Court is not inclined to interfere with the same and the Writ Petition is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall also stand dismissed.

**SD/-K. SREE RAMA MURTHY
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To

1. One CC to SRI K.VENUMADHAV, Advocate [OPUC]
2. Two CCs to GP FOR CIVIL SUPPLIES, High Court for the State of Telangana, at Hyderabad. [OUT]
3. Two CD Copies

PSK.
BS



HIGH COURT

DATED:31/12/2024

ORDER

WP.No.40638 of 2022



DISMISSING THE WRIT PETITION
WITHOUT COSTS

6
4.15

27/1/25