
(2003) 03 AP CK 0104

In the Andhra Pradesh High Court

Case No : Writ Petition No. 11666 of 1997

Alapati Soma Sekhar

APPELLANT

Vs

Collector and Others

RESPONDENT

Date of Decision : 06-03-2003

Acts Referred:

Citation : (2003) 3 ALD 62 : (2003) 4 ALT 483

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : G. Dharma Rao, for the Appellant; GP for Civil Supplies, for the Respondent

Final Decision : Allowed

Judgement

V.V.S. Rao, J.—The petitioner assails the order of the first respondent dated 26-4-1997 whereby and whereunder the first respondent set aside the order passed by the second respondent on 12-6-1995 and issued a direction to the third respondent to issue a fresh notification to fill up the vacancy of fair price shop dealer of Shop No. 24 of Vijayawada.

2. The facts are not in dispute. The petitioner was appointed as fair price shop dealer of Shop No. 24 of Vijayawada in 1996. The third respondent after conducting enquiry issued proceedings on 12-5-1994 cancelling the authorization. Feeling aggrieved by the same, the petitioner filed an appeal under Clause 17 of the A.P. Scheduled Commodities (Regulation of Distribution by Card System) Order, 1973 (hereafter called "the Control Order"). The same was allowed by an order dated 12-6-1995 by the second respondent, who imposed a fine of Rs. 2,000/- and directed the third respondent to restore the authorization of the petitioner. The petitioner paid the fine amount of Rs. 2,000/- on 24-6-1995 and as his authorization was not restored, he preferred a writ petition being W.P. No. 15628 of 1995 seeking a direction to the third respondent to restore the authorization. This Court, by order dated 9-8-1995, granted interim direction, and accordingly the authorization was restored.

3. The fifth respondent herein preferred a revision under Clause 18 of the Control Order to the first respondent. The first respondent by order dated 27-7-1995, stayed the orders of the second respondent dated 12-6-1995 whereunder the authorization was restored. Be that as it may, W.P. No. 15628 of 1995 was heard along with other writ petition where a question arose whether a temporary fair price shop dealer appointed pending action against the permanent dealer can invoke the revisional jurisdiction of the District Collector under Clause 18 of the Control Order. This Court, by order dated 1-9-1995, held that a temporary dealer has no locus standi to file a revision petition before the Collector. W.P. No. 15628 of 1995 was accordingly allowed. Aggrieved by the order dated 1-9-1995, the fifth respondent preferred writ appeal before a Division Bench of this Court. The writ appeal being W.A. No. 1146 of 1995 was dismissed along with the other appeal by order dated 19-3-1997 observing as under.

4. Having perused the impugned judgments, we see nothing which would require reiteration of the facts or examination of the principles of law. What is stated, however, in the impugned judgments in respect of the right of the appellants to claim fair price shop dealerships shall not be extended to mean that in case the order in revision goes against them they shall have no locus standi to challenge the same in accordance with law. The petition in revision, if filed on behalf of any of the appellants, shall proceed in accordance with law.

5. In view of the judgment of the Division Bench as well as the orders of the learned single Judge, a revision could not have been entertained by the first respondent. However, the first respondent allowed the revision petition filed by the fifth respondent and issued a direction to the third respondent to re-notify the shop. It is also brought to my notice that the third respondent cancelled the petitioner's authorization on 27-5-1997 and issued a fresh notification on 3-6-1997. Therefore, the petitioner filed the present writ petition on 10-6-1997 and obtained interim orders. As on today, the petitioner is continuing as fair price shop dealer by reason of the interim order. Learned counsel for the petitioner submits that the order passed by the first respondent on 26-4-1997 is illegal and contrary to the judgment of this Court in W.P. No. 15628 of 1995 as well as the judgment in W.A. No. 1146 of 1995 and batch dated 19-3-1997.

6. A question was raised before the District Collector that a revision at the instance of the fifth respondent is not maintainable.

7. However, the first respondent overruled the submission observing as under.

8. The High Court of Andhra Pradesh, Hyderabad in W.P.No.15628 of 1995 dated 1-9-1995 filed by A.Somasekhar observed that any person aggrieved by any order under Clause 17 (1) of A.P.S.C. (RDCS) Order, 1973, may within thirty days from the date of communication to him/her of such an order prefer a revision to the District Collector concerned provided that the orders shall be passed under this clause unless the aggrieved person has been given a reasonable opportunity of representing his/her case.

9. I have already referred to the judgment of the learned single Judge as well as the judgment of the Division Bench. This Court categorically laid down that the fifth respondent being a temporary dealer has no locus standi to invoke the revisional jurisdiction of the District Collector whereas the District Collector proceeded on a wrong footing that such revision is maintainable by the fifth respondent. Be that as it may, when the Joint Collector allowed the appeal filed by the petitioner and directed the Sub-Collector to restore the fair price shop dealership, the District Collector could not have interfered with the order of the Joint Collector without issuing a notice to the petitioner. It is not denied that in the revision petition filed by the fifth respondent, the petitioner was not made a party. Therefore, the order passed by the first respondent has rendered itself void by reason of non-issue of notice to the petitioner and also because of the reason that the District Collector misdirected herself in coming to the conclusion that the revision under Clause 18 of the Control Order is maintainable at the instance of a temporary dealer. The order of the District Collector is unsustainable.

10. In the result, the writ petition is allowed and the impugned order passed by the District Collector and all the consequential proceedings thereof are set aside. There shall be no order as to costs.