

(2012) 03 AP CK 0025

In the Andhra Pradesh High Court

Case No : Writ Petition No. 4723 of 2012

Buddaiahgari Swami Naidu

APPELLANT

Vs

Joint Collector, Anantapur District and Others

RESPONDENT

Date of Decision : 23-03-2012

Acts Referred:

Citation : AIR 2012 AP 151

Hon'ble Judges : Nooty Ramamohana Rao, J

Bench : Single Bench

Advocate : Prasada Rao, for the Appellant;

Final Decision : Dismissed

Judgement

Nooty Ramamohana Rao, J.—This Writ Petition has been preferred challenging the action of the 1st respondent Joint Collector, Anantapur District in not passing any orders on the stay application filed by the petitioner herein on 17-2-2012 in an appeal preferred by him against the orders of the Revenue Divisional Officer, Penukonda dated 10-2-2012 appointing the 4th respondent herein as a fair price shop dealer. The writ petitioner was appointed by the Revenue Divisional Officer, Penukonda on 5-12-2006 as a temporary fair price shop dealer for shop No. II of Langaluru Village, O.D. Cheruvu Mandal, as the authorization of the regular dealer of the said fair price shop was suspended. Importantly, it was spelt out therein that the said appointment as a temporary dealer is liable for termination at any time without notice. From 5-12-2006 onwards, the writ petitioner continued as a temporary fair price shop dealer. He has also instituted, in the meantime, Writ Petition No. 2586 of 2008. An interlocutory order was passed by this Court therein on 11-2-2008 directing the respondents not to finalize the selections of a regular fair price shop dealer. Ultimately, the said Writ Petition was dismissed by this Court on 8-6-2009. Now, the Revenue Divisional Officer passed orders on 10-2-2012 finalizing the selections. Two candidates have participated in the process of selection, one is Sri G. Ravi, S/o Obulappa and the second candidate is the 4th respondent herein. The Revenue Divisional Officer, in his

proceedings, dated 10-2-2012, has clearly recorded that the 4th respondent is a member belonging to Scheduled Castes (recorded improperly as belonging to Madiga community). It is also recorded that she was having land of an extent of Ac. 2.14 cents and also a house at Inagaluru Village. She was not involved in any criminal cases and no member of her family is working in the government service of revenue, civil supplies, corporation, etcetera. Therefore, she has not suffered any disqualifications for being chosen as a fair price shop dealer. Accordingly, he appointed her as a regular fair price shop dealer, subject to the conditions specified therein, such as depositing a sum of Rs. 3,000/- as a security deposit for the due performance of the conditions of the authorization, that she would function as a fair price shop dealer at least for a period of five years, etcetera. Validity of this selection has been challenged by the writ petitioner herein before the Joint Collector by preferring an appeal on 17-2-2012. A stay application was also moved therein. On the ground that no orders are passed on the said stay application, the present Writ Petition has been filed.

2. Firstly, the writ petitioner is only a temporary fair price shop dealer appointed as such by the Revenue Divisional Officer, based upon the recommendations made by the Tahsildar concerned. He has not undergone any process of selection before he was selected as a temporary dealer. Possibly, the Tahsildar may have been satisfied about his ability to run the fair price shop in the village and hence, recommended his case. Therefore, he has not acquired any right whatsoever from his temporary appointment as a fair price shop dealer. Secondly, the appointment is purely a stop gap or ad hoc arrangement, as the regular fair price shop dealer has been facing some disciplinary action for certain irregularities and consequently, his authorization has been suspended. It appears, the regular fair price shop dealer's authorization has been cancelled, thus causing a regular vacancy. Thirdly, the writ petitioner has not participated at the regular selections and only two candidates have competed and of them, the 4th respondent has been chosen. Reasons are assigned by the Revenue Divisional Officer in his order dated 10-2-2012 why the 4th respondent has been chosen of the two candidates. Those reasons appear to be valid and genuine.

3. Though it is contended in this Writ Petition that the 4th respondent is not a resident of the village, I am not willing to consider the same in view of the finding of the Revenue Divisional Officer recorded in the order dated 10-2-2012 that the 4th respondent owns an extent of Ac. 2.14 cents of land and also a house in that village. The learned counsel for the writ petitioner would contend that this land or the house stands in the name of her husband but not in her name. In all ordinary circumstances, if the husband of the 4th respondent is owning land and a house in the village, it would be reasonable to infer and construe that the 4th resident is a normal resident of the said village. Therefore, the finding of the Revenue Divisional Officer in that respect cannot be termed as perverse or arbitrary. A temporary dealer, who has not participated in the selection process cannot raise a valid objection with regard to the selection process undertaken by the appointing authority. The balance of convenience does

not lie in favour of the writ petitioner for stalling the regular appointment of a fair price shop dealer. Therefore, I do not consider that this Writ Petition has any merit for it to be accepted.

4. However, the learned counsel for the writ petitioner makes a compassionate plea that the writ petitioner has already deposited the requisite money with the Tahsildar, Civil Supplies for the purpose of lifting the essential commodities for the month of March 2012. Every dealer is required to deposit money between 15th and 25th of the preceding month for lifting the essential commodities for the next month. Since the writ petitioner is said to have already deposited the demand draft with the Tahsildar concerned, it is only appropriate that the writ petitioner should be permitted to lift and distribute the stock to all the cardholders without fail for the month of March 2012. However, he shall not carry any sales after 25-3-2012. He must return all the records and registers together with the balance of stock, if any available with him up to the month of March 2012. The 4th respondent herein shall be permitted to submit the demand draft before 25-3-2012 to enable her to lift the essential commodities for the month of April 2012 and start distributing the same from 1-4-2012 onwards. Subject to what has been observed above, this Writ Petition is otherwise merit-less and it is dismissed. No costs.