

(1997) 12 AP CK 0088

In the Andhra Pradesh High Court

Case No : Writ Petition No. 30254 of 1997

M. Chandra Obula Reddy

APPELLANT

Vs

District Collector, Cuddapah Dist and Others

RESPONDENT

Date of Decision : 13-12-1997

Acts Referred:

Citation : (1998) 2 ALD 73 : (1998) 2 ALT 511

Hon'ble Judges : V. Rajagopal Reddy, J

Bench : Single Bench

Advocate : Mr. D. Sudershan Reddy, for the Appellant; Government Pleader for Civil Supplies, for the Respondent

Judgement

1. The order of appointment of the petitioner as Fair Price Shop Dealer of Chowtupalli village of Proddutur Mandal is under challenge in the writ petition.

2. The facts are as under :

In pursuance of the notification issued in April, 1990 applications were called for the appointment of P.P. Shop dealer to the shop at Chowtupalli village. The petitioner and the fourth respondent, among others, had applied. The third respondent, considering the applications of the applicants, appointed the petitioner by order dated 12-3-1991. Aggrieved by the said order, the fourth respondent filed appeal before the Joint Collector (Respondent 2 herein) and the Joint Collector by order dated 22-3-1993 allowed the appeal setting aside the order of appointment on several grounds. The petitioner filed a revision petition before the first respondent challenging the order of the Joint Collector and by an order dated 25-10-1997 the revision was rejected confirming the order under appeal. The petitioner now challenges the validity of the order of the first respondent - District Collector.

3. It is contended by the learned Counsel for the petitioner that the petitioner is more qualified than the fourth respondent and the finding that the petitioner was equally qualified is erroneous and opposed to the record It is further contended

that when once the petitioner is more qualified the requirement of residence within the area of the shop/village does not assume any importance. Hence, the order of the first respondent in setting aside the order of appointment of the petitioner only on the ground that the petitioner was not the resident of the local area/village should be held as vitiated. The learned counsel for the respondents rests the arguments stating that both the petitioner as well as the fourth respondent are equally qualified and as per the guidelines preference shall be given to the resident of the village. The question whether the petitioner was the resident of the village or not is a question of fact and the finding of the authority on the question of residence will not normally be interfered by this Court. The learned Government Pleader also supports the above contentions of Fourth Respondent and submits that the order of the first respondent is justified as it is in accordance with the guidelines issued by the Government in this regard.

4. A perusal of the impugned order discloses that the first respondent has examined the question whether the petitioner was the resident of Chowtupalli village or not. In this connection he has looked into the material that was brought in the case viz., the voters list, pattedar pass book and the ration card. On such examination the finding was given that the petitioner was not bona fide resident of Chowtupalli village. The contention of the learned Counsel for the petitioner that the reasons assigned by the first respondent are opposed to the record, appears to be without force. It should be remembered that the Joint Collector also has given the finding in disposing of the appeal that the petitioner was a resident of Proddutur town. The said finding which is a question of fact was confirmed by the Revisional Authority, upon close examination of the material adduced. The learned Counsel for the petitioner has taken me through the order of the revisional authority. But I am not persuaded to hold that the said finding is opposed to the record. Thus, I do not see any error in the said finding.

5. The next question is with regard to the educational qualification of the petitioner and the fourth respondent. Both of them possess intermediate qualification, but the petitioner possesses additional qualification of L.C.E. Basing upon this additional qualification, the learned Counsel for the petitioner submits that the petitioner is more qualified than the fourth respondent and hence he should be preferred for the appointment. In this connection, it is necessary to look into the guidelines given in memo dated 22-3-1990, where under the revised guidelines have been issued for selection of the candidates. The condition 1.4.2 says that the candidate must be a resident of the Gram Panchayat or the Municipal limits of the town as the case may be, in which the shop is to be located. 1.4.3 provides that other things being equal, preference shall be given to a resident of the revenue village or hamlet in which the shop is to be located or the ward in a Municipality where the shop is to be located. The minimum educational qualification is given at 1.3.0. which is a pass in 7th class. 1.3.0 also provides for preference. Preference was given to unemployed women. Thus both the candidates are having minimum qualification and both are unemployed. The respondent is the resident of the village and the petitioner is only the resident of

the town. The requirements for a selection are that a pass in 7th class and resident in the Gram Panchayat or the Municipal limits of the town, as the case may be, depending upon the location of the shop. Since the shop is sought to be located in Choutupalli village, the residence in that village is necessary. The residence in the town is irrelevant. The additional qualification of the candidate cannot put a person in higher pedestal. Preference was to be given only to unemployed candidate but not to a candidate with additional educational qualifications. What all that should be seen is whether the candidate is having pass in 7th class and whether he is the resident of the gram panchayat of Choutupalli. These two conditions should be satisfied. Thus, the requirement of residence is also a condition precedent for selection. Other things being equal, the preference shall be given to the residents of the revenue village or hamlet in which the shop is located or the ward in a Municipality where the shop is to be located. However, in the instant case the question of preference does not arise. The petitioner being held as not a resident of the village, but only of the Proddutur town, he does not fulfil the condition required whereas the 4th respondent satisfied both the conditions. His appointment cannot, therefore, be assailed. The writ petition fails and is accordingly dismissed. No costs.