

(2004) 08 AP CK 0057

In the Andhra Pradesh High Court

Case No : Writ Petition No. 3048 of 2000

N. Srikanth Kumar

APPELLANT

Vs

Government of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 30-08-2004

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2004) 6 ALD 152 : (2004) 6 ALT 415

Hon'ble Judges : B. Prakash Rao, J

Bench : Single Bench

Advocate : V. Ravi Kiran Rao, for the Appellant; Government Pleader for Civil Supplies, for the Respondent

Final Decision : Dismissed

Judgement

B. Prakash Rao, J.—Heard both sides.

2. The petitioner herein files this writ petition, inter alia, seeking writ of mandamus directing the respondents to appoint him as a Fair Price Shop Dealer of Haveli Ghanpur (H. Ghanpur vg.) in pursuance of the selection made in response to the notification, dated 17.11.1999, and to declare the Condition No. 10.2 of the G.O. Ms. No. 198, Food, Civil Supplies and Consumer Affairs (CS-IV) Department, dated 5.2.1996 as illegal and void.

3. The case of the petitioner, in brief, is that in response to the notification, dated 17.11.1999, the petitioner has applied for the Fair Price Shop dealership. He claims that he is a permanent resident of Haveli Ghanpur Village, Medak District, and after the completion of Intermediate, he registered his name in the Employment Exchange in the year 1995 and later, he has completed Graduation in B.A., which is entered in the said exchange. While so, from the news item, dated 23.11.1999, published in "Eenadu" Telugu Daily Newspaper, the petitioner came to know about the said notification calling for applications for filling the vacancies of the Fair Price Shop dealers and accordingly, he submitted the duly

filled application on 27.11.1999. After conducting the interview on 3.12.1999, the petitioner was selected and his name was included in the provisional selection list, which was displayed on the notice board of the Office of the Revenue Divisional Officer, Medak, on 7.12.1999. However, subsequently, basing upon the antecedent report received from the Mandal Revenue Officer, Medak, the said selection was cancelled, inter alia, on the ground that the petitioner is son of a Government employee. It is the case of the petitioner that his father is a teacher working in Panchayath Raj Department and therefore, he cannot be termed in any way as a Government employee. Even otherwise, it is averred that the said department is having no connection whatsoever with Civil Supplies Department directly or indirectly, and as such, it cannot be a ground for rejection. It is further averred that by invoking Condition No. 10.2 in the aforesaid G.O. Ms. No. 198, Food, Civil Supplies and Consumer Affairs (CS-IV) Department, dated 5.2.1996, the petitioner's legitimate right for employment and living as guaranteed to him under Articles 14 and 21 of the Constitution of India are violated and therefore, the proceedings of the Revenue Divisional Officer, Medak, dated 31.1.2000, is liable to be set aside. Hence the writ petition.

4. Contesting the petitioner's claim, the case of the respondents is that Panchayath Raj Department is only a wing of the Government and it cannot be totally disassociated with the Government. Admittedly, the petitioner's father, who is working as a teacher in the Panchayath Raj Department will squarely fall within the definition of the Government employee and thus the disqualification contemplated as per Condition No. 10.2 of the said G.O., gets attracted and the respondents have rightly cancelled the provisional selection of the petitioner for appointment as Fair Price Shop dealer.

5. On the submissions advanced by both the Counsel and on appraisal of the material on record, it is evident that the questions which fall for consideration are as to whether an employee working in the Panchayath Raj Department is a Government employee, for the purpose of incurring disqualification for his son being appointed as a Fair Price Shop dealer, as per Condition No. 10.2 of the G.O. Ms. No. 198, dated 5.2.1996, and whether such a condition is in any way bad, illegal and void.

6. There is no dispute to the fact that in pursuance of the notification issued, the petitioner has applied for Fair Price Shop dealership and he was selected and included in the provisional selection list. Subsequently, on verification, having found that the petitioner's father is working as teacher in Panchayath Raj Department, the selection was cancelled, in view of the Condition No. 10.2 of the aforesaid G.O. Ms. No. 198, Food, Civil Supplies and Consumer Affairs (CS-IV) Department, dated 5.2.1996, which reads as follows:

"Close relatives of "Government employees" specially those working in Civil Supplies Department or Revenue Department or the Civil Supplies Corporation shall not be appointed as fair price shop dealers."

7. The interpretation of the definition of the Government employee requires to be considered. The petitioner's father is working as a teacher in the Panchayath Raj Department, which department.

8. It revolves around the query, whether the Panchayath Raj Department falls within the mischief of Government. Reference can be conveniently made to Article 12 of the Constitution of India, which reads as follows:

"In this Part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India."

9. From the above, "the State" is defined to include the Government and all local and other authorities. With such wider latitude made, it takes in all such instrumentalities and agencies of State, which discharge public functions of the Governmental character. In *Ajit Singh Vs. State of Punjab and Another*, and *Bhagat Ram and Others Vs. State of Punjab and Others*, , it was held by the Supreme Court that Panchayath Raj falls within the ambit of local authorities. In view of the same, there cannot be any two opinions, to hold that the employee of a Panchayath Raj is an employee of the Government for all purposes.

10. Coming to the other question as to whether the Condition No. 10.2 of the said G.O., is in violation of the Article 14 of the Constitution of India, it can be safely said that for reasons mentioned above, the Condition No. 10.2 of the said G.O., has been rightly imported, since the benefit of a Fair Price Shop dealership, is sought to be excluded for the children of the Government employee, with an avowed object. As a result, the children of all such employees are excluded.

11. In the circumstances, I do not find any merits in the writ petition. The writ petition fails and is accordingly, dismissed. No cost.