

(2010) 03 AP CK 0035
In the Andhra Pradesh High Court
Case No : Writ Petition No. 5199 of 2010

V. Sunitha Devi

APPELLANT

Vs

Government of Andhra Pradesh and Others

RESPONDENT

Date of Decision : 08-03-2010

Acts Referred:

Citation : (2010) 3 ALD 118 : (2010) 3 ALT 183

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

Bench : Single Bench

Advocate : B. Vijaysen Reddy, for the Appellant; G.P. for Civil Supplies for Respondent Nos. 1 to 4, for the Respondent

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—In pursuance of the notification inviting applications for granting dealership/authorization in respect of fair price shop (FPS) of Kandanelly Thanda, H/o. Kandanelly Village, Peddemul Mandal in Ranga Reddy District, dated 03.11.2009, the petitioner applied for being appointed as a FPS dealer, along with respondent Nos. 5 to 7. The third respondent, who is appointing authority, conducted written examination on 20.11.2009. The petitioner was provisionally selected, and the fourth respondent was directed to send antecedents report. The same was submitted on 19.12.2009 to the effect that the petitioner's husband is Government employee working as foreman in Health Department. Therefore, third respondent issued memo dated 29.12.2009 calling upon the petitioner to explain as to why her candidature should not be cancelled. Challenging the same, the petitioner filed W.P. No. 2068 of 2010. This Court passed an order in W.P.M.P. No. 2772 of 2010 to the effect that any appointment shall be subject to the result of the said writ petition. Subsequently, the third respondent issued the order dated 23.01.2010 cancelling the petitioner's candidature on the ground that her request cannot be considered as per the norms/guidelines issued by the Government in G.O.Ms. No. 52, dated 18.12.2008. The petitioner, therefore, filed the instant writ petition assailing the

memo dated 23.01.2010.

2. Learned Counsel for the petitioner submits that as per guideline 12(iii) of the Guidelines for Selection and Appointment of Fair Price Shop Dealers (hereafter guidelines) only close relatives of the Government employees working in Civil Supplies Department, Revenue Department, Civil Supplies Corporation or Village Administrative Officer are alone ineligible and as the petitioner's husband is working in Health Department the same is not attracted. The learned Assistant Government Pleader for Civil Supplies refutes the contention.

3. Presumably, in exercise of their powers under Clause 9 of the Andhra Pradesh State Public Distribution System (Control) Order, 2008, the Government issued guidelines. Indisputably, they laid down method and manner of making appointments to FPSs.

4. Guidelines 4, 5, 6 and 8 lay down general qualifications and other eligibility criteria for being appointed as FPS dealer. Guideline 12 (i), (ii), (iii), (xi), (xii) and (xv) lay down or deal with disqualifications for being appointed as FPS dealers. These read as under.

12. General:

(i) All individuals holding any Public Office like Sarpanch of Gram Panchayat, President of Mandal Praja Parishad, Chairman of Zilla Praja Parishad Presidents of Co-operative Societies, councillors or Chairman of Municipality/Members of Zilla Parishad Territorial Constituency (ZPTC) etc., irrespective of the reservation shall not be eligible;

(ii) Every F.P. Shop dealer should give an undertaking to the appointing authority concerned that he/she will relinquish the fair shop dealership if he/she is elected to any public office;

(iii) Close relatives of Government employees specially those working in Civil Supplies Department or Revenue Department or the Civil Supplies Corporation or Village Administrative Officer of the village shall not be appointed as F.P. Shop Dealers;

(xi) The candidate should have no adverse antecedents, such as criminal cases of any punishments under the Essential Commodities Act, 1955, or tendency of cases under Essential Commodities Act, 1955 or cancellation of licenses or punishments or pending charges under Weights and Measure laws, Marketing laws, Labour laws etc., or bad conduct on record as a dealer or as an individual;

(xii) The candidate should possess good health and shall not suffer from any contagious or infectious disease or from any other disability making the candidate unfit to run the F.P. Shop himself/herself;

(xv) The candidate shall not have any connections with any other business dealing with Rice/Sugar/Wheat etc., directly or indirectly;

5. In this case we are concerned with guideline 12(iii). On a plain reading of the same, the submission of the Counsel for the petitioner is misconceived. As a general rule close relatives of all Government employees are disqualified. Merely because the authority which issued guidelines emphasized the Civil Supplies Department, Revenue Department or Civil Supplies Corporation or Village Administrative Officer, it does not mean that the relatives of other Government employees are eligible. There is no power vested either in the Government or the Commissioner to grant exemption, and therefore, specific mention of certain Departments does not in any manner qualify the phrase "close relatives of Government employees".

6. The Writ Petition is misconceived, and the same is accordingly dismissed in limine. There shall be no order as to costs.