

(2013) 07 AP CK 0061

In the Andhra Pradesh High Court

Case No : Writ Petition No. 4433 of 2012 and WVMP No. 1088 of 2012 and 395 of 2013

Vasireddi Simhachalam

APPELLANT

Vs

The District Collector (CS), The Revenue Divisional Officer,
The Tahsildar and Nadivada Sambara Dora
 The
District Collector (CS), The Revenue Divisional Officer and
The Tahsildar Vs Vasireddi Simhachalam and Nadivada
Sambara Dora
 Nadivada Sambara Dora Vs Vasireddi
Simhachalam, The District Collector (CS), The Revenue
Divisional Officer and The Tahsildar

RESPONDENT

Date of Decision : 08-07-2013

Acts Referred:

Citation : (2013) 5 ALD 437 : (2014) 1 ALT 233

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : Taddi Nageswar Rao for Sri Geddam Satish Babu, for the Appellant;
C. Upendra, for the Respondent

Final Decision : Dismissed

Judgement

C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for a mandamus to set-aside notification dated 9-2-2012 issued by respondent No. 2 whereby he has invited applications for filling up of the post of fair price shop No. 1 of Pakki village, Bobbili Mandal, Vizianagaram District, without cancelling the previous notification dated 12-7-2008, as illegal and arbitrary. I have heard Sri Taddi Nageswara Rao, learned counsel for the petitioner, learned Assistant Government Pleader for Civil Supplies and Sri C. Upendra, learned counsel for respondent No. 4.

2. Consequent on arising of a regular vacancy in respect of the above mentioned fair price shop, respondent No. 3 has initially issued notification dated 12-7-2008 calling for applications from B.C. (Women) for filling up the said vacancy. Subsequently, respondent No. 2 has issued an errata reserving the said shop for both B.C. (Men) and (Women). The petitioner who was made eligible on account

of this change in pursuance of the said errata, was called for the interview. Feeling aggrieved by the said errata, a third party filed W.P. No. 17226/2008. On 7-8-2008, this Court has granted stay of all further proceedings in the said Writ Petition. Subsequently, respondent No. 2 has issued the impugned notification on 9-2-2012 whereunder he has called for applications for filling up the vacancy on permanent basis from the S.T. (General) category. Feeling aggrieved by the said notification, the petitioner filed this Writ Petition.

3. At the hearing, the learned counsel for the petitioner submitted that having initiated the process of appointment by initially reserving the vacancy for B.C. (Women) and later modifying the same by reserving the vacancy for both B.C. (Men) and (Women), respondent No. 2 has committed an illegality in issuing the fresh notification without even withdrawing the previous notification.

4. In the counter-affidavit filed by him, respondent No. 2 has sought to justify the impugned action taken by him. It is averred that the Parvathipuram Revenue Division has a total number of 565 fair price shops out of which 484 shops are presently functional; that against the said shops, 85 S.Cs., 27 S.Ts., 294 B.Cs., 60 O.Cs. and 18 Ph.Cs. are functioning as dealers; that while the quotas for all other categories have been filled and candidates in excess of the required quota have been working in those categories, with regard to S.Ts., as against 34 shops reserved for the said category, only 27 dealers are functioning; and that therefore there is a short-fall of 7 S.T. dealers. It is further stated that the Commissioner, Civil Supplies, A.P., Hyderabad, issued circular dated 28-9-2011 with the direction to the appointing authorities to maintain Roster Register for appointment of fair price shop dealers as per 100 Point Roster system similar to Rule 22(2)(E) of the A.P. State and Subordinate Service Rules, 1996; that accordingly the Roster Register has been prepared for appointment of fair price shop dealers and shop No. 1 of Pakki village was fixed at Roster Point No. 75 (5th cycle), which is earmarked for S.T.; and that the said subsequent event has impelled respondent No. 2 to issue a fresh notification inviting applications from the eligible S.T. (General) candidates along with some other vacancies in the Division.

5. Even though the plea of the petitioner that without withdrawing the previous notification respondent No. 2 ought not to have issued a fresh notification, when examined superficially is appealing, on a deeper scrutiny of the case, I am of the opinion that the subsequent events pleaded by respondent No. 2 justified his action in issuing the fresh notification to enable him to fill the S.T. quota, in respect of which there is a short-fall in the candidates belonging to the said category. As the very purpose of envisaging reservations is to provide equitable opportunities to the needy and the deserving cross-sections of the society, especially, belonging to the under-privileged and the downtrodden communities, the impugned action of respondent No. 2 cannot be found fault with. By merely applying for the vacancy and appearing for the interview, no indefeasible right came to be vested in the petitioner to be appointed as the fair price shop dealer

of the shop in question. When the subsequent events have justified respondent No. 2 to issue a fresh notification, the same has not, in any manner, violated the legal rights of the petitioner as no enforceable right exists in him to insist that respondent No. 2 shall go ahead with the previous notification itself. As the petitioner failed to show that the issuance of the fresh notification by respondent No. 2 is either arbitrary or mala fide, I am not inclined to interfere with the latter's decision.

6. For the above mentioned reasons, the Writ Petition is dismissed. As a sequel, interim order dated 21-2-2012 is vacated and WPMP No. 5617/2012 and WVMP Nos. 1088/2012 and 395/2013, are disposed of as infructuous.