

THE HONOURABLE SRI JUSTICE M. GANGA RAO

WRIT PETITION No: 5825 OF 2014

ORDER:

This writ petition is filed to issue a writ of Mandamus declaring the proceedings in Notification Rc.No.6351/2012-G, dated 07.11.2013 issued by the 3<sup>rd</sup> respondent inviting the applications from the eligible candidates to fill up the vacancy of dealership of the new fair price shop bifurcated from shop No.8 of Gogulamodu village, Pedanandipadu Mandal, Guntur District, and the consequential proceedings in DCS.No.N1/6406/2013, dated 15.02.2014 issued by the 1<sup>st</sup> respondent as illegal and arbitrary and to set aside the same.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Civil Supplies appearing for the respondents.

The case of the petitioner is that she was appointed as permanent fair price shop dealer of Shop No.8 of Gogulamudi Village, Pedanandipadu Mandal, Guntur District, 15 years back. Since then, she has been distributing the essential commodities to the card holders without any complaint. While things stood thus, the 2<sup>nd</sup> respondent issued proceedings dated 18.06.2013 bifurcating the shop of the petitioner into two shops, against which the petitioner preferred appeal before the 1<sup>st</sup> respondent along with stay petition. When the 1<sup>st</sup> respondent is not passing any orders on the stay application, the petitioner filed WP.No.32242 of 2013 and this Court by orders dated 12.11.2013 disposed of the writ petition directing the 1<sup>st</sup> respondent to dispose of the appeal and till such time stayed all further proceedings pursuant to the notification dated 07.11.2013. Thereafter, the 1<sup>st</sup> respondent vide order dated 15.02.2014 dismissed the appeal. Aggrieved by the same, the present writ petition came to be filed.

Learned counsel for the petitioner submits that by the date of bifurcation of the petitioner's shop, the shop is consisting of 625 white cards, 43 AAY cards and 1 A.P Card, total 669 cards. The petitioner's family is depending on the meagre income derived by way of commission from the fair price shop. Respondents No.3 & 4 with a view to harass the petitioner, sent false report to the 2<sup>nd</sup> respondent seeking permission for bifurcation of the existing shop and the 2<sup>nd</sup> respondent without considering the fact that the shop consists only 669 cards, issued the proceedings bifurcating the existing shop into two shops and further directed the 3<sup>rd</sup> respondent to notify the vacancy and fill up the same. In the said proceedings, the 2<sup>nd</sup> respondent allotted 336 cards to the existing shop and 333 cards to the proposed new shop. 336 cards is not viable to the dealer to run the shop. As per the guidelines, maximum cards to a fair price shop are 660. As there is excess of 69 cards, if the respondents intend to bifurcate the shop, they can allot the excess cards of 69 to the new shop.

Learned counsel further submits that according to clause 6(iv) of G.O.Ms.No.35 dated 17.09.2007 each fair price shop in Mandal headquarters should have a minimum of 500 BPL cards and 250 pink cards and in respect of rural area each grampanchayat village should have atleast one fair price shop with a minimum of 400 BPL and 50 APL cards. If the petitioner's existing fair price shop is bifurcated, the petitioner will get only 336 cards. According to G.O.Ms.No.35, the bifurcation of the fair price shop has to be affected by taking into consideration of the economic viability of the fair price shops. Before sending proposal for bifurcation, no notice was issued to the petitioner, who is affected fair price shop dealer. Therefore, bifurcation of the petitioner's fair price shop is in clear violation of the guidelines issued in G.O.Ms.No.35. In support of his contentions, he placed reliance on the decision in **T. Ramanjaneyulu v. State of A.P and others [2009(1) ALD (NOC 12)]**.

Learned Assistant Government Pleader that the bifurcation of the petitioner's fair price shop was proposed duly following the guidelines issued in G.O.Ms.No.35. Petitioner's right to continue as fair price shop is not affected. Only cards are reduced as per guidelines issued in G.O.Ms.No.35 duly considering the economic viability of the existing fair price shop dealer. The appellate authority also considered the same. There is no legality or irregularity in bifurcating the petitioner's shop.

Having considered the facts and circumstances of the case, and submissions of the learned counsel and on perusal of the entire material available on record this Court found that the impugned proceedings are issued, considering the difficulties of the cardholders of Gogulamudi Village. As per the guidelines issued in G.O.M.S.No.35 dated 17.09.2007, the authorities are entitled for bifurcation of the shop to make the fair price shop convenient to the cardholders. However, the existing fair price shop dealer is entitled for notice before bifurcation. This Court in *T. Ramanjaneyulu (Supra)* wherein the erstwhile High Court of Andhra Pradesh *inter alia* observed that there can be no dispute about the ratio laid down in that a fair price shop dealer has no right to be appointed as such dealer and that the right to trade under Article 19(g) of the Constitution of India is not being affected in any manner by virtue of bifurcation, eventually held that before effecting bifurcation, existing fair price shop dealer is entitled for a notice to putforth the objections mostly with regard to the viability, in consonance with the principles of natural justice.

In view of the afore going discussion, the notification dated 07.11.2013 issued by the 3<sup>rd</sup> respondent and the consequential proceedings dated 15.02.2014 of the 1<sup>st</sup> respondent are liable to be set aside and are set aside.

Accordingly this Writ Petition is allowed. However, the liberty is given to the 2<sup>nd</sup> respondent to initiate fresh proceedings for bifurcation of the petitioner's fair price shop by duly following the procedure contemplated

under G.O.M.S.No.35 dated 17.09.2007 by issuing notice and considering the objections. No order as to costs.

As a sequel miscellaneous application, pending, if any, shall also stand dismissed.

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JUSTICE M. GANGA RAO

08.02.2022  
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