

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION No.16878 OF 2023

Between:

S.Narmada

...Petitioner

and

1. The State of Telangana, rep. by its Ex-officio Secretary to Government, Consumer Affairs, Food and Civil Supplies Department, State of Telangana, Civil Supplies Bhavan, Erramanzil, Somajiguda, Hyderabad and five others

...Respondents

JUDGMENT PRONOUNCED ON: 14.03.2024

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE K.SARATH

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

JUSTICE K.SARATH

THE HON'BLE SRI JUSTICE K.SARATH**+WRIT PETITION NO.16878 of 2023**

%Dated 14.03.2024

S.Narmada

...Petitioner

and

1. \$ The State of Telangana, rep. by its Ex-officio Secretary to Government, Consumer Affairs, Food and Civil Supplies Department, State of Telangana, Civil Supplies Bhavan, Erramanzil, Somajiguda, Hyderabad and five others

...Respondents

! Counsel for Petitioner: Sri Y.Ashok Raj

^ Counsel for Respondents: Learned Assistant Government Pleader for Civil Supplies

Sri Challa Srinivasa Reddy, learned counsel for respondent No.6

< GIST :

> HEAD NOTE :

? Cases referred : (1978) 1 SCC 405

THE HON'BLE SRI JUSTICE K.SARATH
WRIT PETITION No.16878 OF 2023

ORDER:

This writ petition is filed under Article 226 of Constitution of India seeking the following relief:

“...to issue a writ or direction more particularly one in the nature of Writ of Mandamus by declaring the action of the respondent No.4 in appointing the respondent No.6 as Fair Price Dealer of Chenwar Village, Maddur Mandal vide proceedings No.F/593/2022, dated 31.05.2023 as illegal, arbitrary, without following due process of law, against to the principles of natural justice and consequently set aside the proceedings No.F/593/2022, dated 31.05.2023 of the respondent No.4 by continuing the petitioner as Fair Price Dealer No.4605029 of Chenwar Village, Maddur Mandal, Narayanpet District...”

- 2.** Heard Learned Counsel for the petitioner, learned Assistant Government Pleader for Civil Supplies and Sri Challa Srinivasa Reddy, learned Counsel for the respondent No.6.
- 3.** The learned counsel appearing for the petitioner submits that the respondent No.4 issued a Notification

for appointment of Fair Price Shop Dealer of Chenwar Village, Maddur Mandal, Narayanpet District along with 30 other shops and the petitioner participated in selection process and she got selected and the respondent No.3 issued appointment orders to the petitioner on 15.03.2023. The petitioner has taken charge as Fair Price Shop Dealer for Shop No.4605029 at Chenwar Village, Maddur Mandal, Narayanpet District and continued as Fair Price Shop Dealer. Thereafter, surprisingly, the respondent No.4 issued impugned appointment orders to the respondent No.6 for the same shop where the petitioner is working as on 31.05.2023. The impugned appointment orders to the respondent No.6 is contrary to law as the petitioner appointed in regular selection process and joined duties and continued for more than two months and without issuing any notice to the petitioner, issued impugned appointment orders as contrary to the principle of natural justice. After issuing

the impugned appointment orders dated 31.05.2023, the respondent No.4 issued letter of authorization in favour of respondent No.6 on 24.06.2023.

4. The learned counsel appearing for the petitioner further submits that the action of the official respondents in issuing appointment orders to the respondent No.6 without cancelling the appointment orders of the petitioner and without issuing notice to the petitioner is illegal, arbitrary and against the principles of natural justice. The learned counsel for the petitioner requested to set aside the proceedings dated 31.05.2023 issued by the respondent No.4 and consequential allotment orders dated 24.06.2023 issued in favour of the respondent No.6 by allowing the writ petition.

5. Learned Assistant Government Pleader for Civil Supplies basing on the counter averments submits that the individuals are not eligible for the appointment as

Fair Price Shop dealer who involved in any case under various laws or under any of the orders issued under the Essential Commodities Act, 1955 or their relationship with any business or ex-dealers of Government employee etc as per G.O.M.S.No.20, Consumer Affairs, Food and Civil Supplies (CS.I-CCS) Department, dated 06.09.2018. In the instant case, the husband of the petitioner was a former Fair Price Shop dealer against whom a 6-A case was booked for involving in transportation of Essential Commodities in open market and his authorization was cancelled. In view of the same, the Petitioner becomes ineligible for appointment and the petitioner cannot continue as Fair Price Shop dealer of Chenwar village of Maddur Mandal and requested this Court to dismiss the writ petition.

6. The learned counsel for the respondent No.6 adopted the arguments of the learned Assistant Government Pleader.

7. After hearing both sides and perusing the record, this Court is of the considered view that the respondents issued Notification calling application from the eligible candidates for appointment of Fair Price Shop Dealer and accordingly, the petitioner and the respondent-No.6 participated in the selection process and the petitioner was selected and the respondents issued posting orders to the petitioner for F.P.Shop No.4605029, Chenwar Village of Maddur Mandal. Accordingly, the petitioner taken charge as Fair Price Shop Dealer and continued up to 31.05.2023. Thereafter, without issuing any notice to the petitioner, the respondent No.4 issued present impugned orders for appointing respondent No.6 as dealer of the said shop and orally directed the petitioner not to attend duties.

8. Once the selection process was completed and the petitioner joined duties and continued for more than 2 ½ months, the respondent No.4 has no jurisdiction to again

issue appointment orders to the respondent No.6. There is no reason mentioned in the impugned orders with regard to the cancellation of appointment orders issued to the petitioner. The references in the appointment orders of the petitioner dated 15.03.2023 and impugned orders passed by the respondent No.4 dated 31.05.2023 are one and the same except changing of the names.

9. The contention of the official respondents is that the husband of the petitioner earlier worked as Fair Price Shop Dealer and his dealership was cancelled on the ground that a 6-A case was booked on him and cancelled authorization of the husband of the petitioner. The petitioner is not eligible for appointment as per G.O.M.S.No.20, Consumer Affairs, Food and Civil Supplies (CS.I-CCS) Department, dated 06.09.2018.

10. The contention of the petitioner is that the Division Bench of this Court granted liberty to the husband of the

petitioner to participate in the fresh selection as and when it takes place in W.A.No.1119 of 2012, dated 25.09.2012. Once the husband of the petitioner is eligible for selection as per the orders of this Court, the respondents cannot cancel the appointment of the petitioner on the ground that the husband of the petitioner involved in a 6-A case.

11. The respondents cannot improve their case by filing counter affidavits before this Court without giving any reasons in the impugned orders and the same is contrary to the Judgment of the Hon'ble Supreme Court in ***Mohinder Singh Gill and another Vs. The Chief Election Commissioner, New Delhi and others***¹.

12. The respondent No.4 without issuing any show cause notice and without calling for any explanation from the petitioner and without giving any opportunity to her, cannot pass impugned appointment orders in favour of

¹ (1978) 1 SCC 405

the respondent No.6. There is no cancellation of the appointment of the petitioner as on this date. Moreover, the respondent No.4 in impugned proceedings nowhere mentioned with regard to the appointment of the petitioner on 15.03.2023 was cancelled and also not mentioned reasons for appointing the respondent No.6 in the impugned proceedings. Therefore, the impugned appointment orders of the respondent No.6 is liable to be set aside.

13. In view of the above findings, this writ petition is allowed by setting aside the impugned appointment orders dated 31.05.2023 and consequential allotment orders dated 24.06.2023 issued in favour of the respondent No.6 and directing the respondents to continue the petitioner as Fair Price Shop Dealer in No.4605029, Chenwar Village of Maddur Mandal. There shall be no order as to costs.

14. Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE K.SARATH

Date: 14.03.2024

Note: *LR Copy to be marked*

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