

APHC010417892024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3332]

WEDNESDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 21312/2024

Between:

Pothula Satyanarayana,

...PETITIONER

AND

The State Andhra Pradesh and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.N ANULA

Counsel for the Respondent(S):

1.GP FOR CIVIL SUPPLIES

The Court made the following order:

The Writ Petition is filed impugning the proceedings vide EDT/778/2024 dated 12.09.2024 issued by respondent no.3, in replacing the petitioner with the 5th respondent as temporary fair price shop dealer to F.P. shop No.0423033 of S.Acthutapuram Village, Kakinada rural Mandal, East Godavari District.

2. Heard Smt K.Sumathi, learned counsel representing learned counsel for the petitioner and Sri Appasani Vineeth, learned Assistant Government

Pleader for Civil Supplies. Despite service of notice, 5th respondent did not choose to put appearance before this court.

3. Learned counsel for the petitioner in elaboration to what has been stated in the affidavit contended that, the petitioner was appointed as temporary dealer of the subject shop vide proceedings dated 02.04.2018, while so, basing on the recommendation of the tahsildar, the 3rd respondent issued the impugned proceedings dated 12.09.2024, removing the petitioner as fair price shop dealer and appointing the 5th respondent as a temporary dealer, without issuing any notice to the petitioner and without conducting any enquiry.

Learned Counsel for the petitioner, submits that in similar facts and circumstances, this Court allowed W.P.No.39630 of 2014 dated 24.12.2014 on the ground that one temporary dealer cannot be replaced by another temporary dealer without conducting any enquiry.

4. Learned Assistant Government Pleader for Civil Supplies contended that the temporary dealership can be cancelled at any time and the petitioner has no right to challenge the same, in view of the conditions mentioned in the order, appointing the petitioner as temporary Fair Price Shop Dealer. As such the petitioner has not made any points warranting the interference of this Court and writ petition deserves dismissal being meritless.

5. Perused the record and considered the submissions of both the learned counsel.

6. As could be seen from the pleadings, petitioner was appointed as a temporary dealer and without there being any complaints he was replaced by another temporary dealer i.e., 5th respondent herein vide proceedings dated 12.09.2024. Admittedly, no notice or opportunity was given and no enquiry was conducted against the petitioner herein.

7. This Court considered the similar issue in W.P.No.39630 of 2014 dated 24.12.2014 wherein it was held that “once a dealer is appointed even on temporary basis, the question of the appointing authority comparing the qualifications of such dealer with that of a third person, who possess higher educational qualifications, and preferring such third person on that ground should not arise at all.” This Court also held that “In the absence of any proven allegations of irregularities attributed to the petitioner in the running of the fair price shop, its replacement with respondent No.6 cannot be sustained.”

8. A perusal of record would show that, solely basing on recommendation of the tahsildar, the impugned proceedings were issued appointing the 5th respondent as temporary dealer, without there being any allegations against the petitioner, without issuing any show cause notice and without conducting any enquiry. In view of the same, the petitioner cannot be replaced by another temporary dealer. If there are allegations against the petitioner, the respondents may issue show cause notice and follow the procedure as contemplated under the A.P. State Targeted Public Distribution System (Control) Order, 2018.

9. In view of the facts and circumstances of the case, the impugned order issued by the 3rd respondent, simply replacing the petitioner with the 5th respondent, without conducting any enquiry and without suspending or canceling the authorization of the petitioner, is not sustainable under law. By virtue of the said act, the petitioner has suffered a lot of mental agony and incurred a lot of expenditure in approaching this court by filing the writ petition. In view of the same, this Court is inclined to impose costs on the concerned authority who has issued impugned order. Accordingly, the authority concerned shall pay costs of Rs.5,000/- to the petitioner herein. The State is directed to pay the costs to the petitioner and recover the same from the authority concerned who issued the impugned proceedings vide EDT/778/2024 dated 12.09.2024.

10. Accordingly, the writ petition is ***disposed of*** by setting aside the proceedings vide EDT/778/2024 dated 12.09.2024 issued by respondent no.3. However, this order does not preclude the authorities to take necessary action against the petitioner, if so advised, in accordance with law, in terms of conditions contained in the appointment of the petitioner. There shall be no order as to costs.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI