

APHC010208972023



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

[3333]

TUESDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

WRIT PETITION NO: 10912/2023

Between:

1. R SIVAIAH, S/O. R. SUBBARAO, AGED 48 YEARS, OCC. EX-F.P.
SHOP DEALER, R/O.UTAKURU VILLAGE, PARIGI MANDAL, SRI
SATHYA SAI DISTRICT.

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, CONSUMER AFFAIRS, FOOD AND CIVIL SUPPLIES
DEPARTMENT, SECRETARIAT, AMARAVATHI, GUNTUR DISTRICT.
2. THE DISTRICT COLLECTOR C S, SRI SATHYA SAI DISTRICT.
3. THE JOINT COLLECTOR, SRI SATHYA SAI DISTRICT.
4. THE REVENUE DIVISIONAL OFFICER, PENUKONDA, SRI SATHYA
SAI DISTRICT.
5. THE TAHASILDAR, PARIGI MANDAL, SRI SATHYA SAI DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus challenging the final orders vide

D.Dis.No.121/2006 C, dt.22.02.2006 and subsequent orders vide D.Dis.No.1280/2006/C, dated 15.05.2007 passed by the 4th respondent and confirmed by his orders vide D.Dis.No.982/2014 C, dt.01.10.2014 passed by the 4th Respondent in cancelling the petitioner's F.P. shop authorization vide F.P. Shop-I, Utakuru Village, Parigi Mandel, Sri Sathya Sai District without considering the Enquiry Report vide L.Dis.No.302/08/C, Dt.25.09.2008 of the 5th Respondent as illegal, arbitrary, capricious, violative of Principles of Natural Justice and unconstitutional and set aside the above said orders and consequently direct the respondents to restore the petitioner's F.P. Shop-I, Utakuru Village, Parigi Mandel, Sri Sathya Sai District and pass

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to continue the petitioner as F.P. Shop-I, Utakuru Village, Parigi Mandel, Sri Sathya Sai District by suspending the orders vide D.Dis.No.121/2006 C, dated 22.02.2006 passed by the 4th respondent, pending disposal of the writ petition and to pass

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant leave to the Respondent No.5 in the Writ Petition No.10912 of 2023 to file counter affidavit in the above Writ Petition and pass

Counsel for the Petitioner:

1.N ASWARTHA NARAYANA

Counsel for the Respondent(S):

1.GP FOR REVENUE

2.GP FOR CIVIL SUPPLIES

The Court made the following:

ORDER:

This Writ Petition came to be filed under Article 226 of the Constitution of India, seeking the following prayer:

“to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus challenging the final orders vide D.Dis.No.121/2006 C, dt.22.02.2006 and subsequent orders vide D.Dis.No.1280/2006/C, dated 15.05.2007 passed by the 4th respondent and confirmed by his orders vide D.Dis.No.982/2014 C, dt.01.10.2014 passed by the 4th Respondent in cancelling the petitioner's F.P. shop authorization vide F.P. Shop-I, Utakuru Village, Parigi Mandel, Sri Sathya Sai District without considering the Enquiry Report vide L.Dis.No.302/08/C, Dt.25.09.2008 of the 5th Respondent as illegal, arbitrary, capricious, violative of Principles of Natural Justice and unconstitutional and set aside the above said orders and consequently direct the respondents to restore the petitioner's F.P. Shop-I, Utakuru Village, Parigi Mandel, Sri Sathya Sai District and pass”

2. The petitioner herein was initially appointed as a permanent fair price shop dealer of Utakuru village, Parigi mandal, Sri Satya Sai district in the year 1998 and ever since, he has been distributing essential commodities to the card holders, without there being any complaint from whomsoever concerned.

3. The grievance of the petitioner is that, due to change in the political scenario, the 5th respondent submitted a report to the 4th respondent on 17.01.2006 alleging that the petitioner committed certain irregularities and basing on the same, the 4th respondent issued suspension-cum-show cause

notice dated 27.01.2006, without even affording an opportunity of hearing to the petitioner. Aggrieved by the same, the petitioner filed W.P.No.2185 of 2006, wherein, this Court directed the 4th respondent to consider the petitioner's explanation. Accordingly, the petitioner submitted his explanation on 13.02.2006, but, without considering the same and without even affording an opportunity of hearing, the 4th respondent, vide order dated 22.02.2006 cancelled the petitioner's authorization.

4. Challenging the final order dated 22.02.2006, the petitioner filed appeal vide D.Dis.No.K4/192/2006, dated 28.08.2006 before the 3rd respondent, which was allowed by setting aside the order dated 22.02.2006 and the matter was remanded to the 4th respondent for fresh consideration. Pursuant to the same, the 4th respondent has again passed proceedings in D.Dis.No.1280/2006/C, dated 15.05.2007, confirming his earlier order dated 22.02.2006. The petitioner has approached the 3rd respondent by way of another appeal in D.Dis.No.K4/PKD/323/2007, which was dismissed vide order dated 19.04.2008. Subsequently, the petitioner filed a revision petition before the 2nd respondent and the same was dismissed vide proceedings in D.Dis.No.K4/PKD/1028/2008, dated 04.09.2008. The said proceedings were challenged by the petitioner before this Court by filing W.P.No.22178 of 2009, which was disposed of on 13.02.2014 by setting aside the order dated 04.09.2008 passed by the 2nd respondent and remanded the matter to the 3rd

respondent for fresh consideration after submitting a copy of the report of the 5th respondent dated 24.01.2006 to the petitioner and to dispose of the appeal.

5. In pursuance of the orders passed by this Court, the 4th respondent directed the Deputy Tahsildar, Somandepalli mandal to enquire into the matter and accordingly, a report dated 21.08.2014 was submitted to the 4th respondent basing on which, the 4th confirmed his earlier orders dated 22.02.2006, vide proceedings dated 01.10.2014. Challenging the proceedings dated 01.10.2014, the petitioner filed W.P.No.32827 of 2014, wherein, this Court passed the following interim order on 31.10.2014:

‘Pending further orders, the respondents shall not fill up the vacancy of fair price shop dealer of Utakuru Village, Parigi Mandal, Ananthapur Mandal, on permanent basis.’

6. Thereafter, the said writ petition was dismissed on 07.04.2021 granting liberty to the petitioner to challenge the final order dated 22.06.2006. Aggrieved by the arbitrary action of the respondent authorities, the petitioner filed this writ petition.

7. Heard Sri. N. Aswatha Narayana, learned counsel for the petitioner and learned Assistant Government Pleader for Civil Supplies. Perused the entire material available on record.

8. It is the case of the petitioner that due to political pressures, the 5th respondent submitted a report on 17.01.2006 to the 4th respondent, alleging that the petitioner has committed certain irregularities. Based on the said report, the 4th respondent issued a suspension-cum-show-cause notice on 27.01.2006, which was the subject matter in W.P.No.2185 of 2006 filed by the petitioner, wherein, this Court directed the 4th respondent to consider the petitioner's explanation. Though the petitioner submitted his explanation on 13.02.2006, the 4th respondent cancelled the petitioner's authorization on 22.02.2006 without considering the explanation or providing an opportunity of hearing. The petitioner filed an appeal against the 22.02.2006 order before the 3rd respondent which was allowed and the order dated 22.02.2006 was set aside and the matter was remanded for fresh consideration. However, the 4th respondent passed another order on 15.05.2007, confirming his previous order dated 22.02.2006. Though the petitioner filed an appeal against the order dated 15.05.2007, it was dismissed by the 3rd respondent 19.04.2008. Subsequently, the same was confirmed in a revision petition filed before the 2nd respondent.

9. A perusal of the material available on record would go to show that, pending revision before the 2nd respondent, the 5th respondent was directed by the 2nd respondent to enquire into the matter and to submit a report. Accordingly, the 5th respondent visited the petitioner's village to conduct

enquiry, wherein, he was informed by the villagers that the petitioner has been supplying essential commodities regularly and that few persons, who are against the petitioner, made false allegations against the petitioner. Further, it appears that the villagers requested to restore the authorization of the fair price shop to the petitioner. Stating thus, the 5th respondent submitted his report on 25.09.2008. The relevant portion of the said enquiry report is extracted hereunder:

“Recently, Utukuru Villagers, politicians and ration card holders have made representation to the District Collector and the I am directed to submit he report on the said representation after making enquiry. Accordingly, I went to Utukuru Village and enquired with the villagers.

(1) The Villagers have represented that the permanent S.C.Dealer Sri.R.Sivaiah regularly supplying the essential commodities without any remarks and the Mandal Officers many time inspected and found the said fact. They have represented that some persons who are against Sri.R.Sivaiah have made false allegations against him. The Villagers strongly represented that one business man Mr.Santosh Kumar has made political colour to the issue and even though the Police interfered and declared that Sri.R.Sivaiah did not involve the alleged allegations made against him, the Joint Collector passed illegal orders against Sri.R.Sivaiah and he preferred appeal to the District Collector.

(2) In the light of the above said facts all the villagers and card holders appealed and represented that wantonly cases were registered against Sri.R.Sivaiah and as no justice is done to Sri.R.Sivaiah, they are humbly submitted to the District

Collector that kindly consider the cases of Sri.R.Sivaiah by resolving the issue from the political colour.”

10. However, without waiting for the report to be submitted, the 2nd respondent, vide order dated 04.09.2008, dismissed the revision petition filed by the petitioner, which was under challenge in W.P.No.22178 of 2009, wherein this Court set aside the order dated 04.09.2008 passed by the 2nd respondent and remanded the matter back to the 3rd respondent for fresh consideration. Accordingly, the 4th respondent instructed the Deputy Tahsildar to investigate, and thereafter, a report was submitted on 21.08.2014, based on which, the 4th respondent reaffirmed the original decision on 01.10.2014.

11. Undisputedly, the matter pertains to the year 2006 and two decades have already passed by. For the past two decades, the petitioner has consistently been approaching both this Court and the respondent authorities in order to prove that the allegations made against him are false. Considering the significant passage of time and the efforts put by the petitioner and taking into consideration the enquiry report dated 25.09.2008 of the 5th respondent, the matter is once again remanded back to the 4th respondent to consider the case of the petitioner afresh, basing on the report submitted by the 5th respondent dated 25.09.2008, after duly issuing a notice to the petitioner and also an opportunity of hearing. The said process shall be completed within a period of two (2) months from the date of receipt of a copy of this order.

12. Accordingly, with the above direction, this writ petition is allowed. There shall be no order as to costs.

Consequently, miscellaneous applications, pending, if any, shall also stand closed.

JUSTICE V. SUJATHA

Date:02.12.2025

Gss