

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case No. :- WP (C) No. 66/2023 c/w
WP (C) No. 2914/2021

**Mehak Fatima Magray D/o Javid Iqbal
Magray R/o Village Dodason Pain
Tehsil Thanamandi District Rajouri**

.....Petitioner(s)

Through: Mr. Waheed Choudhary, Advocate

Vs

- 1. UT of J & K through
Commissioner/Secretary to the Govt.
Food Civil Supplies & Consumer Affairs
Department, Civil Secretariat, Jammu**
- 2. Director Food Civil Supplies & Consumer
Affairs Department, Jammu**
- 3. Deputy Director Food Civil Supplies &
Consumer Affairs Department, Jammu**
- 4. Assistant Director Food Civil Supplies &
Consumer Affairs Department, Rajouri**
- 5. Tehsil Supply Officer, Food Civil Supplies
& Consumer Affairs Department,
Thanamandi**

..... Respondent(s)

Through: Mr. Bhanu Jasrotia, GA

Coram: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
30.12.2023

WP (C) 66/2023

1. The instant petition has been preferred by the petitioner under Article 226 of the Constitution of India, whereby the petitioner is seeking following reliefs:

- a. An appropriate, writ order or direction in the nature of writ of mandamus commanding the respondents more particularly Respondent No. 2 to transfer the FPS (Fair*

Price Shop) License at Nerojal (Rajouri) in the name of petitioner which was issued way back in the year 1991 in the name of late Grandfather of the petitioner (Abdul Rehman) as the petitioner is fully eligible for the same as per Government Order No. 127-FCS & CA of 2016 dated 04.08.2016 and other norms and guidelines issued time to time.

b. An appropriate, writ order or direction in the nature of writ of mandamus commanding the respondents to transfer the license of Fair Price Shop at Nerojal in the name of petitioner as has been done in cases of other similarly situated persons with a further prayer to issue the Ration to the petitioner for further distribution among the beneficiaries of the area.

2. The short submission which has been advanced by learned counsel for the petitioner is that a Fair Price Shop license bearing No. 161-165/FSR/1991 dated 07.07.1991 for FPS situated at Neerojal was issued in favour of the grandfather of the petitioner who died in the year 2020 and after the death of the grandfather, the petitioner approached the respondents for transfer of license in her name by way of proper application after completing all legal formalities including the resolution passed by the Village committee, as she is eligible in all respect and is the legal heir of her grandfather.
3. It is further submitted by learned counsel for the petitioner that Respondent No. 4 directed the Respondent No. 5 to file the status report with respect to the status of the petitioner, whereby the Respondent No. 5 vide communication No. 185/TSO/TMD/FCSA dated 21.12.2020 recommended the case of the petitioner by

stating therein that all the codal formalities are completed and the case of the petitioner be sent to the higher authorities for transfer of FPS license accordingly.

4. The further case of the petitioner is that the Respondent No. 4 on the recommendation of Respondent No. 5 forwarded the case of the petitioner to Respondent No. 2 for consideration in the light of Clause (D-ii) of Government Order No. 127-FCS&CA of 2016 dated 04.08.2016 and accordingly, Respondent No. 2 who is the competent authority to transfer the license in question has not done the needful and forwarded the case to Respondent No. 1 vide communication No. DFCS&CAJ/185/Rajouri/2021-22/698-99 dated 16.11.2021 for perusal and consideration, after which the Respondent No. 1 after considering the issue again sent back the matter to Respondent No. 2 to take the appropriate necessary action strictly as per the rules in vogue and advisory already issued vide Letter No. FCS&CA/FPS/53/70571/2021 dated 04.01.2022.
5. Objections to the instant petition have been filed by the official respondents wherein a specific stand has been taken in Para 10 which is reproduced as under:

*“.....10 That the petitioner approached the office of Respondent No. 5 vide application dated 26.09.2022 with the submission that **Original license of her grandfather Late. Ab. Rehman S/o Ab. Subhan R/o Nerojal has been traced from her residence.** The office of Respondent No. 5 vide communication No. TSO/FCS&CA/TMD/2022-23/459 dated 26.09.2022 forward the aforesaid application of the petitioner on the same day to the*

office of Respondent No. 4 for necessary action. The office of Respondent No. 4 again forwarded the said application of the petitioner to the office of Respondent No. 2 vide communication No. AD/FCS&CA/ R/2022-23 dated 26.09.2022 for further necessary action. It is further respectfully submitted that it came to notice after perusal of the original FPS License of grandfather of the petitioner that license to the deceased grandfather of the petitioner was issued by the then Assistant Director, Food & Supplies, Rajouri in the year 1991 who is not competent to issue FPS License as per rules. Accordingly, the matter was forwarded with the new facts to the office of Respondent No. 1 vide communication No. DFCS&CAJ/F-185/2022-23/973 dated 21.10.2022.”

6. Learned counsel for the petitioner vehemently argued that the respondents are just trying to delay the matter with malafide intention by adopting dilly-dally tactics and prays that the instant petition be disposed of at this stage by directing the respondents to take decision in her case within some time frame to which Mr. Bhanu Jasrotia, learned GA has no objection.
7. Heard learned counsel for the parties at length and perused the material available on record.
8. With the consent of learned counsel for the parties, the instant petition is disposed of at this stage by directing Respondents 2 to 4 to take decision with respect to the transfer of license of Fair Price Shop in the name of the petitioner strictly under rules/guidelines in vogue within the period of six weeks from the date, copy of this order along with the copy of this writ petition and annexure(s) as well is served to Respondents 2.

9. However, it is made clear that while according consideration/taking decision of the case of the petitioner, the respondents are also directed to give due weightage to the orders passed by the respondents in similar situated case vide Order No. 132-DFCS&CAJ of 2022 dated 07.06.2022 attached as Annexure XI.

WP (C) 2914/2021

Mr. Waheed Choudhary submits that the instant petition is inadvertently clubbed with WP (C) 66/2023 by the Registry and prays for the same to be segregated. Prayer made is allowed.

Registry is directed to segregate the aforesaid petition bearing WP (C) No. 2914/2021 and list the same on **16.02.2024**.

(Wasim Sadiq Nargal)
Judge

JAMMU
30.12.2023
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