

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE**

**THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937**

**RP.No. 922 of 2015**  
-----

**JUDGMENT DATED 10-02-2015 IN WP(C) 22765/2014**  
.....

**REVIEW PETITIONER(S)/(RESPONDENTS 1 & 2 IN THE W.P.(C).:**  
-----

- 1. THE FOOD CORPORATION OF INDIA,  
HEADQUARTERS, BHARAKAMBA LANE, 16-20,  
NEW DELHI-110 001.**
- 2. THE GENERAL MANAGER,  
FOOD CORPORATION OF INDIA, KESAVADASAPURAM,  
THIRUVANANTHAPURAM-695 001.**

**BY ADVS.SRI.T.P.M.IBRAHIM KHAN, SC, FCI  
SRI.K.M.ABDUL MAJEED**

**RESPONDENT(S)/(PETITIONERS AND RESPONDENTS 3 TO 6 IN THE W.P.(C):**  
-----

- 1. MALAPPURAM DISTRICT RATION WHOLESALE  
DISTRIBUTORS FEDERATION,  
SUKAPURAM P.O., EDAPPAL, MALAPURAM DISTRICT - 679 576,  
REPRESENTED BY ITS PRESIDENT.**
- 2. TIRUR CO-OPERATIVE RURAL BANK,  
AWD NO. 10, THIRUR P.O, MALAPPURAM- 676 101,  
REPRESENTED BY ITS SECRETARY.**
- 3. M/S.M.VASUDEVAN,  
AWD NO. 9, PRAKASH MILL, KUTTIPURAM - 679 571,  
MALAPPURAM DISTRICT.**
- 4. TIRUR FARMERS CO-OPERATIVE CREDIT & MARKETING SOCIETY,  
AWD NO.4, TALAKADATHUR, TIRUR P.O.,  
MALAPPURAM DISTRICT - 676 103,  
REPRESENTED BY ITS SECRETARY.**
- 5. K.SAKEER HUSSAIN,  
AWD NO.4, SUKAPURAM P.O., EDAPPAL,  
MALAPURAM DISTRICT - 679 576.**

6. THE PONNANI CO-OPERATIVE RURAL SOCIETY LIMITED,  
AWD - 15, THRIKKAVU, PONNANI,  
MALAPPURAM - 679 577, REPRESENTED BY ITS SECRETARY.
7. ANDATHODE SERVICE CO-OPERATIVE BANK LIMITED,  
AWD 15, P.O.ARAMANGALAM, PONNANI,  
MALAPPURAM DISTRICT - 679 587,  
REPRESENTED BY ITS SECRETARY.
8. THE DIRECTOR OF CIVIL SUPPLIES,  
THIRUVANANTHAPURAM-695 001.
9. THE DISTRICT COLLECTOR,  
MALAPPURAM DISTRICT, MALAPPURAM-679 001.
10. THE DISTRICT SUPPLY OFFICER,  
MALAPPURAM, MALAPPURAM DISTRICT-679 001.
11. GOVERNMENT OF KERALA,  
FOOD & SUPPLIES OF CONSUMER AFFAIRS DEPARTMENT,  
THIRUVANANTHAPURAM-695 001,  
REPRESENTED BY ITS SECRETARY.
12. THE UNION OF INDIA,  
MINISTRY OF AGRICULTURE & CONSUMER AFFAIRS,  
FOOD & PUBLIC INSTRUCTIONS, KRISHI BHAVAN,  
NEW DELHI-110 001.

R8-R11 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR  
R12 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL  
BY SRI.K.LAKSHMINARAYANAN

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON  
29-10-2015 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

msv/

A.MUHAMED MUSTAQUE, J.

=====

R.P No. 922 of 2015

=====

Dated this the 29<sup>th</sup> day of October, 2015

J U D G M E N T

This review petition is at the instance of respondents 1 and 2 in the writ petition.

2. The issue in the judgment is regarding additional transportation charges incurred by Authorised Wholesale Distributors for lifting rationed articles from the depots of Food Corporation of India.

3. This court relying upon clause (8) of the Agreement entered by the Government of Kerala with the Food Corporation of India held that based on the agreement the petitioners are entitled for enforcement of terms of the agreement.

4. The review is essentially for the reason that this Court overlooked the Government of India circular produced as Ext.R2(A) dated 21.2.2008 wherein it is stipulated as follows:

“If full monthly allocated quantities of food grains are not available in a particular FCI depot/Godown, the State/UT Governments will have to lift them from the pre-assigned alternate depot/godown.”

5. The learned Standing Counsel submits that in the light of

above circular, the State Government is liable to pay the additional transportation charges and not the Food Corporation of India. No doubt, this Court has not considered the impact of above clause in the circular. This Court is of the view that even the circular is adverted, that cannot have an impact upon the right of the petitioner as the same is crystallized based on the agreement entered between Government and FCI. Thus the circular can have an impact only when the agreement entered by Government with the FCI is varied in terms of the circular. Therefore the circular issued by the Government of India to FCI cannot be relied upon to deny the claim of the petitioner. FCI has no case that the agreement entered with the Government of Kerala has been varied. The circular cannot have a statutory colour unless if it is issued under the statutory provision. In that view of the matter the FCI is bound by the agreement.

Thus there is no merit in the review petition. Accordingly the review petition is dismissed. In view of the dismissal of the Review petition, FCI is given three weeks time from today to comply with the judgment.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE