

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

WA.No. 1515 of 2009 ()

**AGAINST THE ORDER/JUDGMENT IN WP(C) 10511/2006 of HIGH COURT OF KERALA
DATED 01-09-2008**

APPELLANT(S)/PETITIONERS 1, 2 AND 4:

- 1. KUTTAPPAN NAIR, ARD NO.93,
KANANAMUKKU, KOZHENCHERRY, PATHANAMTHITTA.**
- 2. C.G.RAMACHANDRAN NAIR,
A.R.D.NO.62, MARKET JUNCTION, ELANTOOR
KOZHENCHERRY, PATHANAMTHITTA.**
- 3. A.D.SOMASUNDARAN NAIR,
N.S.S.KARAYOGAM, NO.380, A.R.D.NO.58
MARKET JUNCTION, ELANTHOOR, KOZHENCHERRY
PATHANAMTHITTA.**

**BY ADVS.SRI.THOMAS ABRAHAM
SRI.DIPU.R
SRI.K.S.HARIDAS
SRI.V.RENJITH KUMAR**

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, CIVIL SUPPLIES DEPARTMENT
SECRETARIAT, TRIVANDRUM.**
- 2. COMMISSIONER, CIVIL SUPPLIES
COMMISSIONERATE OF CIVIL SUPPLIES
GOVERNMENT OF KERALA, TRIVANDRUM.**
- 3. DISTRICT COLLECTOR, PATHANAMTHITTA.**
- 4. M/S.KODUMALAYIL AGENCIES,
KWD NO.VII, KOZHENCHERRY, REPRESENTED BY ITS MANAGER.**

R1-R3 BY ADV. SR GOVERNMENT PLEADER SRI.P.IDAVIS

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 20-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WA NO.1515/2009

APPENDIX

APPELLANTS' EXHIBITS

ANNEXURE A1: TRUE COPY OF THE COMMUNICATION DT
18.12.2000 SENT BY THE DISTRICT SUPPLY OFFICER TO THE
DIRECTOR OF CIVIL SUPPLIES.

ANNEXURE A2 COLLECTIVELY: ROUGH SKETCH SHOWING THE
LIE OF THE ARDS OF THE APPELLANTS AND THE TABULATED
STATEMENT SHOWING THE DISTANCES TO THE TWO WHOLESALE
DEPOTS COLLECTIVELY.

//True Copy//

PS to Judge

Rp

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.A. No. 1515 of 2009

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Dated this, the 20th day of July, 2015

J U D G M E N T

Ashok Bhushan, CJ

This writ appeal has been filed against judgment dated 1st September, 2008 in WP(C) No.10511/2006. Petitioners were aggrieved by Exts.P2 and P4 orders delinking ARDs from Kozhencherry. The matter was considered by the District Collector, Pathanamthitta as well as the Civil Supplies Commissioner and ultimately the matter was taken up by the State Government and by order dated 31st March, 2004, the State Government confirmed the orders passed by the Civil Supplies Commissioner. The State Government in its order has held that depot No.5 having been cancelled, ARDs were distributed with depot Nos.6 and 7. It was further noted that distance between ARD Nos.7 and 6 is only 4 kms. Although the appellants' claim was considered and it was observed that in the public distribution system, the State has to ensure convenience of the card holders,

-:2:-

the prices which shall be payable by the card holders are same and, due to administrative reasons, the attachment of petitioners with depot No.7 cannot be faulted with.

2. The issue as to which ARD is to be attached with which depot is a decision which have to be taken on the fact situation of each case and this Court in exercise of writ jurisdiction under Article 226 of the Constitution of India shall not sit in appeal over the said decision. We do not find any error in the judgment of the learned Single Judge where learned Single Judge refused to interfere with the orders passed. We only observe that, in the event there is substantial change in circumstances, it shall be open for the petitioners to represent the matter afresh.

With these observations, writ appeal is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

//True Copy//

PS to Judge