

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 500 of 2012 (J)

PETITIONER:

UTHAMAN, AGED 65 YEARS,
S/O.RAGHAVAN, PUTHUVALVEETIL,
AMBALAPUZHA-SOUTH GRAMA PANCHAYATH, AMBALAPUZHA P.O,
ALAPPUZHA DISTRICT.

BY ADVS.SRI.M.V.BOSE,
SRI.VINOD MADHAVAN,
SMT.NISHA BOSE.

RESPONDENTS:

1. THE DISTRICT SUPPLY OFFICER,
OFFICE OF THE DISTRICT SUPPLY OFFICER, ALAPPUZHA,
PIN – 688 001.
2. THE TALUK SUPPLY OFFICER,
OFFICE OF THE TALUK SUPPLY OFFICER, ALAPPUZHA,
PIN – 688 001.
3. REVAMMA,
RAKESH BHAVANAM, ERZHARACHIRA, KANJIPPADAM P.O,
ALAPPUZHA DISTRICT, PIN – 688 005.

R1 & R2 BY GOVERNMENT PLEADER SRI.MANOJ.P.KUNJACHAN,
R3 BY ADV. SRI.A.K.GOPALAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

W.P(C).NO. 500 OF 2012 (J) :

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: TRUE COPY OF IDENTITY CARD ISSUED TO THE PETITIONER BY THE SELECTION COMMISSION OF INDIA.**
- EXT.P2: TRUE COPY OF NOTICE, DATED 31.12.2010, ISSUED BY THE 1ST RESPONDENT.**
- EXT.P3: TRUE COPY OF REPRESENTATION PREFERRED BEFORE THE HONOURABLE MINISTER OF FOOD AND CIVIL SUPPLIES.**
- EXT.P4: TRUE COPY OF REPRESENTATION, DATED 10.10.2011 BEFORE THE HONOURABLE MINISTER.**
- EXT.P5: TRUE COPY OF INFORMATION, DATED 11.10.2011, FURNISHED BY THE 1ST RESPONDENT.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.A. TO JUDGE.

Prv/2.

K. VINOD CHANDRAN, J.

W.P.(C) No. 500 of 2012 (J)

Dated this the 17th day of July, 2015

J U D G M E N T

The petitioner, a resident of Ambalapuzha South Panchayath, is aggrieved by an Authorised Ration Distributorship (ARD), under the Public Distribution System, being granted to the 3rd respondent.

2. Applications were invited by Ext.P2 for an ARD in Ambalapuzha South Panchayath, Ward No.12 at Payalkulangara Padinjare Theeram. The 3rd respondent was granted the said license, being the only person who applied under the notification. However, later on by Ext.P5 the District Supply Officer had found that the building in which the ration shop was intended to be carried on is about 600 metres away from the location called Payalkulangara. In such circumstance, the grant did not materialise, is the argument.

3. The contention in the writ petition is that the 3rd respondent cannot be granted the license, for reason of the 3rd respondent not being a resident of Ward No.12. The contention is specifically raised on the basis of Clause 45 of the Kerala Rationing Order. Proviso to Clause 45 reads as follows:

“Provided also that a person who is a full time employee in any establishment or who is not normally resident in the locality shall not be eligible to hold any authorisation to run the retail ration depot under this order.”

4. Reliance has also been placed on the Full Bench decision in **Selvaraj v. State of Kerala - 2011 (2) KLT 416** wherein it has been stated that normally an appointment of ARD is with regard to a particular area and the distribution of ration is also confined to that area, in which circumstance the normal rule would be that a person residing in such area is to be appointed.

5. The learned Government Pleader, however, alertly points out that such a rigour would be there only if a person who resides in the area itself applies for the distributorship. However, in the present case, admittedly, there is only one applicant and merely for the reason that none from Ward 12 had applied, it cannot be said that the distributorship itself cannot be granted. In any event, the 3rd respondent is a person residing in the very same Panchayath.

6. The Government in its counter affidavit dated 24.07.2012 had merely stated that the 3rd respondent is not a resident of Ward No.12 (old) of Ambalapuzha South Panchayath and as per the Kerala Rationing Order, the only stipulation is that the licensee should be an inhabitant of the same Panchayath. The 3rd respondent is admittedly residing in the Panchayath. The ration shop is notified for Ward No.12. The Government has filed an additional counter affidavit dated 13.2.2014, pursuant to an order of this Court dated 30.1.2014, specifically placing on record

that the 3rd respondent was never residing in Ward No.12, but however, the 3rd respondent was the only applicant and was from the very same Panchayath in another Ward, being Ward No.14.

7. In such circumstance, there could be no interference made to the grant. However, the petitioner submits that the ARD was not opened due to Ext.P5. If that be so, then definitely further notification has to be published. However, if the grant has materialised in the distributorship being carried on by the 3rd respondent, no interference would be caused.

Writ Petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE