

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

WP(C).No. 16532 of 2013 (N)

PETITIONER:

**K. SURENDRAN, S/O.(LATE) KUTTAPPAN,
KUMBAZHAVILA PUTHEN VEEDU, KOVUR,
ARINELLOOR. P.O, KUNNATHUR TALUK,
KOLLAM DISTRICT.**

**BY ADVS.SMT.R.BINDU,
SRI.K.PRIYAKUMAR.**

RESPONDENTS:

- 1. THE COMMISSIONER OF CIVIL SUPPLIES,
OFFICE OF THE CIVIL SUPPLIES COMMISSIONER,
MUSEUM JUNCTION, THIRUVANANTHAPURAM-695 001.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, KOLLAM- 691 001.**
- 3. THE DISTRICT SUPPLY OFFICER,
KOLLAM-691 001.**
- 4. THE TALUK SUPPLY OFFICER,
KUNNATHUR TALUK, KOLLAM-691 001.**

BY GOVT. PLEADER SRI.MUHAMMED SHAFI. M.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1- PROCEEDINGS NO.C.S 2-3144/11 DATED 02.01.2012 OF THE 4TH RESPONDENT.
- P2- COPY OF THE CHARGE MEMO NO.CS 5-174/12 DATED NIL.
- P3- COPY OF REPLY TO THE CHARGE MEMO.
- P4- PROCEEDINGS NO.CS 5-174/12 DATED 06.09.2012 BY THE 3RD RESPONDENT.
- P5- PROCEEDINGS NO.CS 5.4293/2012 DATED 07.12.2012 BY THE 2ND RESPONDENT.
- P6- COPY OF THE PROCEEDINGS NO.(CS) A5-2816/13 DATED 15.05.2013 BY THE 1ST RESPONDENT.
- P7- COPY OF CERTIFICATES ISSUED BY VARIOUS RESPECTABLE PERSONS IN THE LOCALITY WHICH SHOWS THAT THE PUBLIC ARE SATISFIED WITH THE CONDUCTION OF BUSINESS BY THE PETITIONER.

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.16532 of 2013

Dated this the 16th day of January, 2015

JUDGMENT

The petitioner is the licensee under the Kerala Rationing Order in respect of ARD No.110 of Mynagappally, Kunnathur Taluk, Kollam District. The petitioner's licence was suspended pointing out certain irregularities. The Taluk Supply Officer passed Ext.P1, the petitioner's licence was temporarily suspended. Thereafter, by proceedings of the District Supply Officer, the petitioner's licence was revoked. Challenging the order of the District Supply Officer, the petitioner preferred an appeal before the District Collector, Kollam. Ext.P5 is the order of the District Collector, Kollam. In fact, the petitioner was not heard by the District Collector. On the other hand, the District Collector relegated the hearing of the matter to the District Supply Officer, whose order was challenged before the

District Collector as seen from Ext.P5 order of the District Collector. Based on the hearing conducted by the District Supply Officer, the District Collector affirmed the order impugned before him by the District Supply Officer. The petitioner, thereafter, challenged the order of the District Collector before the Civil Supplies Commissioner. The Civil Supplies Commissioner as per Ext.P6 order affirmed the order passed by the District Collector. Challenging the above orders, this writ petition is filed.

2. The learned counsel for the petitioner raised two grounds. Firstly, the propriety of the order passed by the District Collector by Ext.P5. Secondly, it is argued that the order is passed in violation of Clause 59(4) of the Kerala Rationing Order. The petitioner submits that he made a request for return of the documents seized from him and the above documents were not provided to him.

3. The petitioner availed a statutory remedy before the District Collector by filing an appeal challenging the order passed by the District Supply Officer. Necessarily, the District Collector ought to have heard the petitioner before passing the order. On the other hand, the District Collector relegated the hearing of the matter to the authority whose order was under challenge before him. Therefore, Ext.P5 order is vitiated on account of non-compliance of the principles of natural justice as the petitioner was not heard by the appellate authority. Consequently, Ext.P5 is liable to be set aside. It is also to be noted that while disposing revision the revisional authority did not advert to the above aspect of the challenge made by the petitioner. On the other hand, the revisional authority simply affirmed the order passed by the District Collector. Therefore, I am of the view, Ext.P6 order is liable to be set aside. The petitioner's case is that he was not given the

documents, which were seized from his custody. The petitioner's further case is that he is unable to raise objection to each point on the allegation of irregularity attributed against him for want of necessary documents.

4. The learned Government Pleader submits that the petitioner has not made any application for obtaining any document in terms of Clause 59(4). I am of the view, considering the nature of the order to be passed in this matter, an opportunity should be given to the petitioner to substantiate his contention. Therefore, the matter is relegated to the District Supply Officer. The petitioner shall make a request for supply of all the documents. Based on the request of the petitioner all the documents shall be supplied to the petitioner in terms of Clause 59(4) of the Kerala Rationing Order. If the petitioner makes the request within four weeks, necessary documents shall be given to the petitioner within a

further period of two weeks. The District Supply Officer shall conclude the proceedings after hearing the petitioner and also affording an opportunity of hearing to the petitioner to substantiate the objections within a further period of one month. Consequently, impugned orders are set aside.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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