

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).No. 29746 of 2004 (N)

PETITIONER :

**SAJIMON T.N.,
THEKKEPPURACKAL
PATHPPALLY P.O.,
MOOLAMATTOM.**

**BY ADVS.SRI.T.C.ULAHANNAN
SRI.R.RAJESH**

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR,
PAINAVU, IDUKKI.**
- 2. THE DISTRICT SUPPLY OFFICER,
PAINAVU, IDUKKI.**
- 3. JOMON P. JOSEPH,
POOVATHINAL HOUSE,
MOOLAMATTOM.**
- 4. SRI. SIBI KURIAN,
IDAVKKANDATHIL,
MOOLAMATTOM.**
- 5. THE RATIONING INSPECTOR,
VELLIYAAMATTOM FARKKA,
THODUPUZHA TALUK.**

**R1 & R2 BY GOVT. PLEADER SRI. MANOJ P. KUNJACHAN
R3 BY ADVS. SRI.T.S.RADHAKRISHNA PILLAI
SRI.T.R.RAJEEV
R4 BY ADVS. SRI.C.J.JOY
SRI.V.J.JAMES**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE NOTIFICATION NO. (C-S) B2 2329/03 DTD. 6/8/04 CALLING FOR APPLICATIONS RATIONSHOP NO. 209 AT KAPPAKKANAM IN WHICH THE PETITIONER WAS APPLICANT.
- EXT.P2 COPY OF NOTIFICATION NO. (C-S) B2 3708/02 DTD. 19/2/04 FOR RATION SHOP NO. 45 AT CHAVARNA IN WHICH APPLICATIONS WERE ACCEPTED WITHOUT SOLVENCY CERTIFICATE.
- EXT.P3 COPY OF PROCEEDINGS DATED 1/9/04 ISSUED RATION SHOP NO. 45 AT CHAVARNA REFERRED IN ITEM 2 ABOVE TO PROVE THAT APPLICATION WAS ACCEPTED WITHOUT OBTAINING SOLVENCY.
- EXT.P4 NOTIFICATION NO. (C-S) B2-1658/02 DATED 22/8/03 FOR THE ESTABLISHMENT OF RATION SHOP AT ELAPPILLY RATION SHOP NO. 122.
- EXT.P5 COPY OF THE PROCEEDINGS DATED 31/5/04 REGARDING ELAPPILLY RATION SHOP NO. 122 (REFERRED IN ITEM 4) WHEREIN APPLICATIONS WERE ACCEPTED WITHOUT CERTAIN MAIN DOCUMENTS.
- EXT.P6 COPY OF SALES MAN REGISTER OF TALUK SUPPLY OFFICE DISCLOSING THE CORRECT ADDRESS OF R3 IS AT MOOLAMATTOM WHO HAS GIVEN FALSE ADDRESS TO OBTAIN DEALERSHIP AT KAPPAKKAANAM.
- EXT.P7 COPY OF THE CARD REGISTER OF RATION SHOP NO. 35 AT MOOLAMATTOM RELATING TO R3 WHEREIN THERE IS SOME CORRECTION WHICH PROVE MANIPULATION REGARDING HIS PROPER ADDRESS.
- EXT.P8 COPY OF THE RATION CARD REGISTER DISCLOSING THE ADDRESS OF MATHEW KURIAN WHOSE ADDRESS IS USED BY R3 TOOK FALSE RATION CARD IN THE NAME OF HIM.

(Contd...)

- EXT.P9 DECLARATION SUBMITTED BY MATHEW KURIAN BEFORE THE
SUPPLY OFFICER FOR RENEWAL OF RATION CARD THE NAME OF HIM
WHEREIN R3 OBTAINED FALSE RATION CARD (SHOWS 2 CARDS IN
THE SAME HOUSE).
- EXT.P10 PANCHAYATH CERTIFICATE SHOWING OLD HOUSE NUMBER AND THE
NEW HOUSE NUMBER OF THE SAME HOUSE OF THE MATHEW
KURIAN.
- EXT.P11 THE RELEVANT PART OF THE VOTERS LIST OF RECENT PARLIAMENT
ELECTION TO PROVE PERMANENT ADDRESS OF R3.
- EXT.P12 SALE AGREEMENT DATED 18/5/04 EXECUTED BETWEEN DO RAJU
PURUSHOTHAMAN & SURESH TO PROVE OWNERSHIP OF THE
RATION SHOP (NO CERTIFICATE IS OBTAINED FROM NEW OWNER).
- EXT.P13 REJECTION ORDER OF THE APPLICATION OF THE PETITIONER
DATED 20/9/04.
- EXT.P14 THE POSTAL COVER SEND TO THE PETITIONER TO PROVE DELAY IN
COMMUNICATING R13 REJECTION ORDER (NOTICED DATED 20/9/04
WAS SENT ONLY ON 30/9/04).
- EXT.P15 REPRESENTATION SUBMITTED BY THE PETITIONER TO THE
DISTRICT COLLECTOR DATED 29/9/04 AGAINST THE REJECTION
ORDER ISSUED TO THE PETITIONER FOR RETAIL DEALERSHIP AT
KAPPAKKANAM.
- EXT.P16 HEARING NOTICE DATED 1/10/04 ISSUED TO R3 & 4 FOR ISSUING
DEALERSHIP SERVED DIRECTLY ON 6/10/04 FIXING THE HEARING
DATE AS ON 8/10/04.
- EXT.P17 REMINDER FAX MESSAGE SENT BY THE PETITIONER TO THE
DISTRICT COLLECTOR DTD. 7/10/04 TO CONSIDER A15
REPRESENTATION.
- EXT.P18 COPY OF PROCEEDINGS APPOINTING R3 AS RETAIL DEALER.
- EXT.P19 COPY OF PAPER PUBLICATION REGARDING ILLEGAL APPOINTMENT
OF R3 PUBLISHED IN DESHABHIMANI DAILY 2/10/04.

(Contd...)

WP(C).No. 29746 of 2004 (N)

EXT.P20 (1) & (2) CIRCULAR OF CIVIL SUPPLIES DIRECTOR NO.10/83 &
CIRCULAR NO. (CS) C2-40906/71 & OF THE BOARD OF REVENUE.

EXT.P21 APPEAL SUBMITTED BY THE PETITIONER BEFORE THE DISTRICT
COLLECTOR DATED 2/11/04.

RESPONDENT'S EXHIBITS :

EXT.R1(a) CIRCULAR NO. 10/83 OF DIRECTOR OF CIVIL SUPPLIES.

EXT.R1(b) APPLICATION DATED 8.9.2004 BY THE PETITIONER.

EXT.R3(a) : COPY OF RESIDENTIAL CERTIFICATE ISSUED BY ARAKULAM GRAMA
PANCHAYAT DT. 27.2.13.

EXT.R3(b) COPY OF TAX RECEIPT ISSUED BY ARAKULAM GRAMA PANCHAYAT
DT. 27.1.13.

EXT.R3(c) COPY OF RATION CARD NO. 1628071106 ISSUED BY TALUK SUPPLY
OFFICER/CITY RATIONING OFFICER, THODUPUZHA DT. 24.12.08.

EXT.R3(d) COPY OF NREGP REGN. CARD NO. KL-09-005-001-005/166 DT. 5.11.13.

//TRUE COPY//

P.A. TO JUDGE

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K. VINOD CHANDRAN, J.

W.P.(C) No. 29746 of 2004 (N)

Dated this the 29th day of June, 2015

J U D G M E N T

The petitioner challenges the order issued under the Kerala Rationing Order, 1966, produced at Ext.P13 in the Writ Petition of the year 2004. Admittedly, a notification was issued dated 6.8.2004 for licensing the dealership of Ration Shop no.209 at Kappakkaanam, Arakkulam Panchayath Ward No.3. The petitioner as well as respondents 3 and 4 were applicants. The petitioner's application was rejected for reason of non production of Solvency Certificate. Subsequently, the District Supply Officer by proceedings dated 8.10.2004 granted the license to the 3rd respondent. Ext.P18 is the Order of the Taluk Supply Officer appointing the 3rd respondent as the licensee in pursuance of the Order of the District Supply Officer read as item no.1 in Ext.P18.

2. The learned counsel for the petitioner assails the grant on the contention that the petitioner was not given sufficient time to produce the Solvency Certificate. The extant practice, according to the petitioner, was to grant at least 30 days' time for production of Solvency Certificate. In the present case, though the notice at Ext.P1 was dated 6.8.2004, the same is said to have been published only on 16.8.2004. Then the intervening holidays of about six days also stood in the way of the petitioner, in getting a Solvency Certificate in time. Exts.P3 and P5 are produced to show that, as a practice, the applicants were given sufficient time, at least of 30 days, to produce the Solvency Certificate. The petitioner's prayer was rejected by Ext.P13 and the same is arbitrary and discriminatory, is the contention. Further, it is submitted on the basis of the decision in **Varkey v. State of Kerala - 1984 KLT 567**, that there is no requirement as such for production of the Solvency Certificate and an applicant could produce it any

time before the Collector (herein the District Supply Officer) takes a decision.

3. I have heard the learned counsel for the 3rd respondent as also the learned Government Pleader.

4. The petitioner's specific submission is with respect to the lack of time for production of Solvency Certificate. Though the petitioner asserts that Ext.P1 notification was issued only on 16.8.2004, there is nothing to substantiate the said contention. Further, going by Ext.P13 order, it is evident that the petitioner himself had sought for seven days' time to produce the Solvency Certificate. The petitioner was unable to produce the Solvency Certificate within the further time granted by the District Supply Officer. Even going by the decision relied on by the petitioner, the requirement is only for a Solvency Certificate to be produced before the Collector, herein the District Supply Officer, at any time prior to the decision being taken on the notification. The petitioner herein has

no contention that he had, at any time prior to 8.10.2004, the date on which the decision was taken by the District Supply Officer, had obtained a Solvency Certificate. Though, the Solvency Certificate is said to be not an essential requirement, it is clear that if the petitioner has asserted his solvency in the application form, then necessarily something has to be produced before the authority to substantiate such assertion. The Solvency Certificate having not been produced, the petitioner does not contend that any other material was produced before the District Supply Officer. Herein, there is considerable departure from the stipulations noticed in **Varkey's** case (supra) insofar as Ext.P1 notification itself stipulating the proof of solvency.

5. The petitioner's contention is that he is an 'Adivasi' residing in a settlement area and that one third party by name Mary Chacko had already applied for the Solvency Certificate to stand as surety to the petitioner,

which was rejected on the ground that she had already obtained a Solvency Certificate to stand surety to another person. The petitioner also contends that on 13.9.2004 a Solvency Certificate which was granted to Mr.Shajan Michael, was available with the petitioner which could have been produced before the authority. However, the petitioner has neither produced the same before the District Supply Officer prior to the order being passed nor has the petitioner produced the same before this Court.

In such circumstance, there is absolutely no reason why there should be an interference in the grant of license to the 3rd respondent. Writ Petition would stand dismissed. No costs.

Sd/-
K.VINOD CHANDRAN,
JUDGE