

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 2ND DAY OF JULY 2015/11TH ASHADHA, 1937

W.P.(C).No.23690 of 2010 (I)

PETITIONER(S):-

1. ALL INDIA RATION DEALERS ASSOCIATION,
REG.NO.01-05/98, TALUK COMMITTEE, AMBALAPUZHA TALUK,
APA BUILDING, VELLAKINAR JUNCTION,
ALAPPUZHA-1, REPRESENTED BY ITS SECRETARY.
2. V.S.SIVAPPAN, ARD NO.137,
AMBALAPUZHA TALUK, ALAPPUZHA,
RESIDING AT VELIYIL HOUSE, PATHIRAPPALLY PO, ALAPPUZHA.

BY ADVS.SRI.K.JAJU BABU [SENIOR ADVOCATE]
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN
SMT.DHANYA CHANDRAN
SRI.T.S.SHYAM PRASANTH.

RESPONDENT(S):-

1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
FOOD AND CIVIL SUPPLIES DEPARTMENT,
GOVT.SECRETARIAT, TRIVANDRUM-695 001.
2. THE COMMISSIONER OF CIVIL SUPPLIES,
TRIVANDRUM-695 001.
3. THE DISTRICT COLLECTOR,
ALAPPUZHA-1.
4. THE TALUK SUPPLY OFFICER,
AMBALAPUZHA TALUK, ALAPPUZHA-1.

R1 TO R4 BY GOVERNMENT PLEADER SRI.MANOJ P.KUNIACHAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
02-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

WP(C).No.23690 of 2010 (K)

APPENDIX

PETITIONER(S)' EXHIBITS:-

EXHIBIT P1: TRUE COPY OF NEWS REPORT WHICH APPEARED IN
MALAYALA MANORAMA DAILY DATED 26.6.2010.

EXHIBIT P2: TRUE COPY OF NOTICE DATED 30.06.2010 ISSUED BY
THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS:-

NIL

vku/-

[true copy]

K.Vinod Chandran, J.

W.P.(C).No.23690 of 2010-I

Dated this the 02nd day of July, 2015

JUDGMENT

The petitioners, being an Association of Ration Dealers and one of its members, are aggrieved with the fact that the members of the 1st petitioner association have been directed to pay the excess amounts for the stock available with the petitioners as on 26.06.2010 as per the price increase notified in the newspapers, evidenced at Exhibit P1. According to the petitioners, the same was notified by the 4th respondent only on 01.07.2010 and hence the interregnum period between 26.06.2010 and 01.07.2010 shall not be considered for remittance of excess price, since the petitioners had only collected the amounts from its customers on the basis of the earlier price.

2. The learned Government Pleader relies on the counter affidavit filed, which indicates that as a matter of practise the dealers are informed by telephone, the price hike, which is negatived by the learned counsel for the petitioners. The petitioners' specific case is that, going by the provisions of

Clause 14A of the Kerala Kerosene Control Order, 1968, the District Collector has to issue an order fixing the price of kerosene and only then they would be entitled to collect the excess amounts from its consumers.

3. This is the specific contention, which has been answered by the Government in its counter affidavit, which states that usually 2 or 3 days time lag may occur to pass on written communication to the dealers and, hence, telephonic message is conveyed. Further, as a matter of course it is stated that on price hike having been notified in the newspapers, every dealer in petroleum products sells their goods as per the price notified. The provisions dealing with each of such petroleum goods indicates that the price hike is applicable as on the date of notification and the stock available as on that date would be charged at the price that is notified by the appropriate Government. The petitioners do not have a case that the petitioners were not aware of the price hike as on 26.06.2010. The petitioners' contention is that no order has been issued by the District Collector. The said contention cannot be countenanced.

In the light of the above, the writ petition would stand dismissed. The members of the 1st petitioner-Association shall remit the amount within two months from today, in which event no interest would be demanded from them. However, if the payment is not made within the time granted by this Court, necessarily the Government would be entitled to claim interest as applicable, from the date of default. Parties are left to suffer their respective costs.

Sd/-

K.Vinod Chandran,
Judge

vku.

[true copy]