

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

FRIDAY, THE 6TH DAY OF FEBRUARY 2015/17TH MAGHA, 1936

WP(C).No. 26158 of 2008 (L)

PETITIONER(S):

A.K. PAUL, AGED 51,
S/O. KOCHAPPAN, ALAPPAT HOUSE
NEAR GOVERNMENT HOSPITAL, CHALAKUDY, THRISSUR.

BY ADVS.SRI.V.M.KRISHNAKUMAR
SMT.P.A.ANITHA

RESPONDENT(S):

1. THE STATE OF KERALA,
REPRESENTED BY SECRETARY
DEPARTMENT OF CIVIL SUPPLIES, SECRETARIAT
THIRUVANANTHAPURAM.

2. SMT. JAYA JOSE, W/O. C.J. GLENNY,
CHEMMANNUR HOUSE, LICENCEE TEMPORARY AWS NO. 13
CHALAKUDY, MUKUNDAPURAM TALUK.

RR2 BY ADV. SRI.T.S.RADHAKRISHNA PILLAI
RR2 BY ADV. SRI.T.P.RAJENDRAN NAIR
R BY GOVERNMENT PLEADER SHRI.K.K.SAIDALAVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
06-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 26158/2008

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE NOTIFICATION NO:F15046/2001 DT.29.7.2003

EXT.P2: -DO- ORDER DT.29.11.2003 OF THE DISTRICT COLLECTOR

EXT.P3: -DO- COMPLAINT FILED BY THE RATION DEALERS ASSOCIATION

EXT.P4: -DO- GOVERNMENT ORDER DT.14.11.2006

EXT.P5: -DO- JUDGMENT IN WPC 3081/2006 DT.26.2.2007

EXT.P6: -DO- JUDGMENT IN WA.792/07 DT.28.10.2007

EXT.P7: -DO- REVISION PETITION FILED BY THE PETITIONER

EXT.P8: -DO- ORDER DT.16.4.2008 OF THE 1ST RESPONDENT

JJ

/TRUE COPY/

P.S.TO JUDGE

K. SURENDRA MOHAN,J.

W.P(C) NO.26158 OF 2008

Dated this the 6th February, 2015.

JUDGMENT

The petitioner who was an applicant for being appointed as an authorized dealer under the Kerala Rationing Order, 1966 has filed this writ petition challenging the appointment of the second respondent as the authorized wholesale dealer in respect of ARD 13 of Chalakudy. Applications were invited for being appointed as authorized wholesale dealer by the District Collector as per Ext.P1 notification dated 29.7.2003. The petitioner as well as the second respondent were both applicants. As per Ext.P2 order, the second respondent was appointed as the dealer. Though the petitioner challenged the said order before the Commissioner of Civil Supplies by Ext.P3, Ext.P2 was confirmed. A revision filed by the petitioner was allowed in his favour. The said order was the

subject matter of WPC 30181/2006 before this Court. This Court directed the first respondent to consider the matter afresh. Ext.P6 judgment in W.A.792/2007 confirmed the judgment of the learned Single Judge. Accordingly, the matter was considered again and by Ext.P8 order the appointment of the second respondent as the authorized wholesale dealer has been confirmed. The petitioner is aggrieved by Exts.P2 and P8.

2. According to the counsel for the petitioner, the petitioner is a physically challenged person suffering from 55% disability. Therefore he ought to have been preferred. He had also furnished a solvency certificate for an amount of Rs.7 lakhs while the second respondent had furnished only a solvency certificate for Rs.6 lakhs. The petitioner has a further contention that, his godown is in the heart of Chalakkudy town and is more convenient while the godown of the second respondent is at a distance. Ext.P8 is attacked by further pointing out that, though the second respondent had

functioned as a wholesale dealer temporarily, no preference could be claimed on the said basis in view of the proviso to Clause 51(2) of the Kerala Rationing Order. Therefore, according to the counsel Ext.P8 is liable to be set aside.

3. Adv.T.S.Radhakrishna Pillai who appears for the second respondent opposes the contentions of the counsel for the petitioner pointing out that, no preference has actually been given to the second respondent for the reason that she had been functioning as a wholesale dealer temporarily. The Kerala Rationing Order does not grant any preference to a physically handicapped person. It is also pointed out that since Ext.P1 notification required furnishing only of a solvency certificate of Rs.6 lakhs the fact that the petitioner had furnished solvency certificate for a higher amount would not inure to his advantage in any manner. It is also pointed out that the second respondent has been functioning as the wholesale dealer for the past 15 years, without cause for any complaint from any quarter. Therefore, it is contended that

Ext.P8 does not suffer from any infirmity necessitating an interference by this Court.

4. Heard. A perusal of the judgment of this Court Ext.P6 confirming Ext.P5 judgment of the learned Single Judge shows that, the claim of the petitioner that he was entitled to be preferred since he was physically handicapped had not found favour with this Court. In the absence of any provision in the rationing order permitting a physically handicapped person to be preferred, the petitioner's claim cannot succeed. Therefore, I do not find anything wrong with the reasoning in Ext.P8 that the petitioner need not be preferred. It has been noticed in Ext.P8 that, the District Collector had before passing Ext.P2 conducted an inspection of the godowns offered by both the parties. The godown offered by the petitioner was found to be not suitable for storing food grains. At the same time the godown offered by the second respondent was found to be suitable and sufficient. It was also found to be within the proximity of the retail dealers in the zone. All of them were

found to be within the first zone. It was further found that the second respondent had superior educational qualifications. The above aspects have been taken note of by the revisional authority also in Ext.P8 and found to be in order. Since Ext.P1 notification required the applicant to furnish a solvency certificate only for Rs.6 lakhs, the petitioner cannot claim any preference on the ground that he had produced solvency certificate for Rs.7 lakhs. Therefore the said contention also has to fail. I do not find that any preference has been given to the second respondent for the reason that she had temporarily conducted the wholesale dealership. Therefore, the contention that the second respondent could not have been preferred for the said reason also lacks substance. Since no preference has been given to the second respondent on the said ground, the proviso to Clause 51(2) of the Kerala Rationing Order has no application.

For the above reasons I do not find any grounds to interfere with Ext.P8 or to grant any of the reliefs sought for in

this writ petition. This writ petition is therefore dismissed.

Sd/-
K. SURENDRA MOHAN
Judge

jj

/True copy/