

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

THURSDAY, THE 25TH DAY OF JUNE 2015/4TH ASHADHA, 1937

WP(C).No. 23931 of 2014 (N)  
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PETITIONER:  
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C. REMADEVI  
EX. ARD NO. 563, LEKHA NIVAS, KILLI  
KOLLOD P.O., NEYYATTINKARA, MALAYINKKEEZH - 695 571.

BY ADVS.SRI.RENJITH B.MARAR  
SRI.V.G.ARUN (NEYYATTINKARA)  
SMT.RESHMI JACOB

RESPONDENT(S) :  
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1. SECRETARY TO GOVERNMENT  
FOOD AND CIVIL SUPPLIES, GOVERNMENT SECRETARIAT  
THIRUVANANTHAPURAM - 695 001.

2. THE DIRECTOR OF CIVIL SUPPLIES,  
THIRUVANANTHAPURAM - 695 001.

3. THE VIGILANCE OFFICER,  
COMMISSIONERATE OF CIVIL SUPPLIES  
THIRUVANANTHAPURAM - 695 001.

R1-R3 BY GOVERNMENT PLEADER SRI NOUSHAD THOTTATHIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 25-06-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS  
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EXHIBIT-P1-TRUE COPY OF PAGE 11 OF THE INSPECTION BOOK DATED  
09/08/2012 PREPARED BY THE 3RD RESPONDENT.

EXHIBIT-P2-TRUE COPY OF THE SHOW CAUSE NOTICE NO.(CS) D 2/25741/2012  
DATED 07/09/2012 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT-P3-TRUE COPY OF THE REPLY SUBMITTED BY THE PETITIONER DATED  
27/09/2012 TO THE 2ND RESPONDENT.

EXHIBIT-P4-TRUE COPY OF THE ORDER NO. (CS) D2-25741/12(1) DATED  
07/11/2012 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT-P5-TRUE COPY OF THE MEMO OF CHARGES VIDE NO. (CS) D2-25741/12  
DATED 29/05/2013 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT-P6-TRUE COPY OF THE REPLY FORWARDED BY THE PETITIONER DATED  
12/06/2013 TO THE 2ND RESPONDENT.

EXHIBIT-P7-TRUE COPY OF THE ORDER OF THE DIRECTOR OF CIVIL SUPPLIES  
CANCELLING THE LICENCE ISSUED TO THE PETITIONER OF ARCD 563 IS VIDE  
IT ORDER NO. (CS) D2-25741/12 DATED 03/10/2013.

EXHIBIT-P8-TRUE COPY OF THE APPEAL NO. 13516/B2/2013 SUBMITTED BEFORE  
THE SECRETARY TO GOVERNMENT OF KERALA, FOOD AND CIVIL SUPPLIES DATED  
01/11/2013.

EXHIBIT-P9-TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT VIDE  
G.O 86/2014/F&CS DPT. DATED 24/03/2014.

RESPONDENT(S) ' EXHIBITS  
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EXT.R2(a): TRUE COPY OF THE RATION CARD.

EXT.R2(b): TRUE COPY OF THE ORIGINAL RATION CARD.

EXT.R2(c): TRUE COPY OF THE STATEMENT OF DEEPA P.

EXT.R2(d): TRUE COPY OF THE REPORT.

EXT.R2(e): TRUE COPY OF SERVED NOTICE NO.CS.D2-25741/2012 DATED  
7.8.2013.

/TRUE COPY/

P.S TO JUDGE

**P.V.ASHA, J.**

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W.P(c) No.23931 of 2014-N  
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Dated this the 25<sup>th</sup> day of June, 2015

**JUDGMENT**

The petitioner is challenging the orders in Exts.P2, P4, P5, P7 and P9 by which the license issued to her for running the authorised ration depot No.563 (ARD 563) was cancelled. The facts and circumstances leading to the impugned orders are as follows.

2. Petitioner is the licensee of a ration shop -ARD 563 in Neyyattinkara Taluk of Thiruvananthapuram District. The 3<sup>rd</sup> respondent - Vigilance Officer under the Commissionerate of Civil Supplies conducted an inspection at the ration shop run by the petitioner on 9.8.2012. In Ext.P1 report the Vigilance Officer it was reported that documents were verified; certain defects relating to maintenance of register, permit of the building, signature of card holders, prescribed bills, excess in the stock of certain articles, etc. were found out. Thereafter the petitioner received a show cause notice dated 7.9.2012 from the Rationing

Controller, by which she was asked to show cause against the proposal to initiate proceedings for confiscation of the security amount and realisation of the difference in value of the shortage of stock in raw rice. The show cause notice was issued on the basis of the inspection report of the Vigilance Officer who conducted the inspection of her ration shop on 9.8.12. As per the report it was found that 50 Kg. of APL raw rice was in excess; the help line number was not exhibited; sample was not exhibited; signature not obtained from card holders in the bill; bill was not in the prescribed form and the Annapoorna Register, building permit, register etc. were not kept in the shop. The irregularities were stated to be of serious nature and the petitioner was asked to furnish explanation if any within a period of 7 days, failing which proceedings will be initiated under Rationing Order No.45(8). Thereupon the petitioner submitted Ext.P3 reply stating that the stock was correct and it was only because of improper verification that, difference was found. Helpline number was shown written by chalks, sample was not received from the retail shop and bill was not obtained from the card holders since the card holders, did not come directly to the

shop. She stated that all the registers were maintained properly and requested to drop the proceedings.

3. Thereafter the Director of Civil Supplies issued Ext.P4 proceedings dated 7.11.2012 suspending the license issued to the petitioner. In this proceedings, issued on the basis of the inspection report of the Vigilance Officer, in addition to the earlier allegations, it was noticed that the card holders were not getting the rationed articles as sanctioned by the Government; even though the list of APL, BPL, AAY and APL(S) consumers is exhibited, the same has not been certified by the Taluk Supply Officer or Rationing Inspector, 8 ration cards illegally kept there were seized by the Vigilance Officer at the time of inspection. Out of these, 4 cards were returned to the card holders. The remaining 4 were found to be in unauthorised custody of the petitioner by which rationed articles were being misappropriated. 4 card numbers were specified therein. In respect of one Deepa, it was stated that the actual card holder having the said number was not the one included under "Rs.2 Scheme", but the licensee managed to get a duplicate card including it under the said scheme and misappropriated the

rationed article without the knowledge of the actual card holder. The actual card holder had produced her original card before the Vigilance Officer. Similarly 3 other cards were also found illegally kept by the licensee for misuse of ration card articles.

4. In the above circumstances, the license in favour of the petitioner, was suspended. The irregularities were found to be serious and in violation of the Kerala Rationing Order, 1966 and Kerosene Control Order 1968.

5. This was followed by a memo of charge Ext.P5 dated 29.05.2013 by the Director of Civil Supplies. In the memo of charges very serious irregularities were alleged as to misuse of varieties of rice, kerosene, improper maintenance of stock register, difference in stock of articles, corrections effected in various bills and registers in respect of the rationed articles distributed including BPL rice, sugar, kerosene etc. during the period from 24.09.2011 to 13.10.2012, which were found on scrutiny of accounts for the period from 0/09/2011 till the date of suspension, retention and misuse of ration cards, misappropriation of rationed articles, etc. The petitioner was directed to show cause why the security amount should not be

forfeited and the cost of articles misappropriated by her not realised from her, failing which further proceedings will be initiated under the Kerala Rationing Order, 1966 and the Kerosene Control Order, 1968.

6. Thereupon she submitted her explanation saying that she has been conducting the depot in accordance with the rules, keeping the registers and other records regularly and that she has not misused any rationing articles. She further stated that none of the ration cards seized from her shop was misappropriated and the same were kept by the original card holders and in the case of certain ration cards, articles were purchased without her knowledge. In respect of the duplicate card it was stated that the card holder had submitted application for duplicate card since it was stated as lost from her and on receipt of the lost card they did not inform her. She further stated that the stock in the ration depot was correct and the same was recorded in the concerned registers. If at all any irregularities are found, she requested to condone the lapses and to revoke the order of suspension. Thereafter the Civil Supplies Commissioner issued Ext.P7 order, after conducting a personal

hearing and after obtaining reports from the Taluk Supply Officer with reference to the explanation obtained by her. It was found that the explanation of the petitioner was not satisfactory and that she has committed the irregularities. Therefore the license issued in her favour was cancelled permanently. Taluk Supply Officer, Neyyattinkara, was directed to realise the value of the rationed articles misappropriated by her and to report the same.

7. The petitioner thereupon submitted an appeal before the Government pointing out her innocence in the matter. The Government upheld the order passed by the Director of Civil Supplies.

8. This Writ Petition is filed as against the said orders. According to the petitioner, the cancellation is ordered in violation of the norms prescribed in the Civil Supplies Manual. A proper evaluation would not have found her guilty of the irregularities alleged. According to her, the Vigilance Officer should have assessed the stock by cent percentage weighment, instead of counting the stock, in violation of paragraphs 7.01(2) of Chapter VII of the Kerala Civil Supplies Manual, 1978 and the

same was in violation of the principles laid down in **N.Sarojini v. Dist.Collector, Thiruvananthapuram** [AIR 1999 Ker.119] and that the orders were passed without verification of the records properly. According to her Ext.P1 report of the Vigilance Officer does not refer to the allegations raised against her in the memo of charges issued by the Director and hence there is no basis of the allegations.

9. The respondents have filed a counter affidavit explaining the irregularities found in the shop. It is stated that the Vigilance Officer had received complaints against the ARD licensed to the petitioner. He conducted a detailed inquiry into it and thereafter conducted an inspection of the ration shop on 9.8.2012, when serious irregularities were detected. The show cause notice was issued to her thereafter and her license suspended. The 2<sup>nd</sup> respondent had issued the memo of charges, on the basis of the report received from the Vigilance Officer as well as the Taluk Supply Officer, Neyyattinkara. As the explanation was not found satisfactory, the ARD was cancelled directing the recovery of the cost of rationed articles misappropriated. The Government rejected the appeal only after

conducting a hearing and when the cancellation was found proper. The 2<sup>nd</sup> respondent has produced Ext.R2 series of documents which show the misappropriation of ration cards even by managing to get duplicate cards. Ext.R2(c) is the statement given in writing by the actual card holder Smt.P.Deepa, in which she stated that she has never applied for any duplicate card before any authorities and requested to take appropriate action against those who misappropriated the rationed articles obtaining a duplicate card in her name. She had given the statement in writing producing the original card. Counter affidavit explains detection of irregularities found by the Vigilance Officer on the enquiry conducted by him in connection with the seizure of the ration cards and he has produced Exts.R2 (a), R2(b) and R2(c) in support of his report as to the detected irregularities and misappropriation of rationed articles by the petitioner through illegal means.

10. Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader. The learned counsel for the petitioner relied on the provisions in the Civil Supplies Manual as pleaded in the Writ Petition and

contended that the verification of stock was not in accordance with the provisions contained in the Civil Supplies Manual by actual weighment of the entire stock and the action taken on the basis of such verification is illegal in terms of the judgment of the Division Bench of this Court in **N.Sarojini v. Dist.Collector, Thiruvananthapuram** (supra).

11. However, the petitioner has no justifiable explanation as to the seizure of the ration cards from the depot. According to the petitioner, nothing is stated in Ext.P1 or the first notice regarding the seizure of ration cards.

12. But it is seen that all these ration cards have been seized from the ration shop and misappropriation of the same finds place in the memo of charges for which the petitioner has submitted explanation which was found unsatisfactory. Moreover, regarding the stock verification and other irregularities found, cancellation has been ordered only after hearing the petitioner and affording sufficient opportunity to her to defend. It is only on being satisfied of the serious nature of the irregularities that, cancellation has been ordered, which is upheld by the respondents. The case of the petitioner is that as

per the Civil Supplies Manual, the weighment of the entire article has to be made. But it does not appear to be practicable or physically possible for conducting any such verification of the entire stock. Even assuming that the stock verification was not conducted in accordance with the provisions of the Kerala Civil Supplies Manual, by proper weighment, as alleged, Ext.R1 series will reveal the gravity of the misappropriation being practised in the ration shop. In the light of the statements given by the original card holder Smt.Deepa, produced as Exts.R2(b) and R2 (c), I am of the view that, that itself is sufficient reason for cancellation of the license. Moreover the impugned orders are passed after conducting inquiry, affording an opportunity of hearing to petitioner. The findings are seen arrived at on the basis of materials and evidence on record. Orders are passed with due application of mind.

In the above circumstances, I find no reason to interfere with the impugned orders. Accordingly, the Writ Petition fails and is dismissed.

Sd/-  
**(P.V.ASHA, JUDGE)**

rtr/