

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WP(C).No. 31327 of 2011 (M)

PETITIONER(S):

**V.SANTHOSH KUMAR, MANAGING PARTNER
M/S.APVN WHOLESALE FOOD GRAINS DEALERS
AWD T.22 KATTAKADA, RESIDING AT SOUBHAGYA
SREE MURUKA BUILDINGS, KATTAKADA P.O.
THIRUVANANTHAPURAM-695 572.**

**BY ADVS.SRI.M.BALAGOVINDAN
SRI.T.KANANDA PADMANABHAN**

RESPONDENT(S):

- 1. STATE OF KERALA REPRESENTED BY
THE SECRETARY, FOOD AND CIVIL SUPPLIES DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM-1.**
- 2. DISTRICT COLLECTOR, COLLECTORATE
CIVIL STATION BUILDINGS, KUDAPPANAKUNNU
THIRUVANANTHAPURAM-43.**
- 3. SUB INSPECTOR OF POLICE,
VALIYATHURA POLICE STATION, THIRUVANANTHAPURAM-23.**
- 4. TALUK SUPPLY OFFICER, NEYYATTINKARA,
THIRUVANANTHAPURAM-695 121.**
- 5. DISTRICT SUPPLY OFFICER,
CIVIL STATION BUILDINGS, KUDAPPANAKUNNU
THIRUVANANTHAPURAM-43.**

R BY ADV.SOJAN JAMES, SENIOR GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1: COPY OF THE ORDER NO.CS6/576/2009 DATED 15/7/2009 PASSED BY THE 2ND RESPONDENT.
- EXHIBIT P2: COPY OF THE APPEAL MEMORANDUM DATED 13/8/2009 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXHIBIT P3: COPY OF THE ORDER NO.11845/D1/09/FCSD DATED 8/9/2009 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P4: COPY OF THE APPEAL MEMORANDUM DATED 3/11/2009 FILED BEFORE THE DISTRICT AND SESSIONS COURT, THIRUVANANTHAPURAM.
- EXHIBIT P5: COPY OF THE JUDGMENT DATED 2/9/2011 IN APPEAL NO.778 OF 2009.

RESPONDENTS' EXHIBITS : N I L

//TRUE COPY//

P.A. TO JUDGE

JV

ANIL K. NARENDRA, J.

W.P.(C) No.31327 of 2011

Dated this the 1st day of July, 2015

JUDGMENT

The petitioner, who is the Managing Partner of M/s.APVN Wholesale Food Grain Dealers AWD T.22, Kattakada, has filed this writ petition seeking a writ of certiorari to quash Exts.P1, P3 and P5 and seeking a writ of mandamus commanding the 2nd respondent to release the value of rice kept under the RD account forthwith. He has also sought for a direction to the 1st respondent to consider and pass appropriate orders on Ext.P3 appeal within a time frame that may be fixed by this Court.

2. When the case was taken up for final hearing, a judgment of this Court dated 01.12.2011 in W.P.(C). No.29862/2011 was relied on by the learned counsel for the petitioner, in which on a similar circumstance, a learned Judge of this Court, after referring to the provisions under Section 6(C) of the Essential Commodities Act and also SRO 749/2010 issued in exercise of the powers conferred under Section 6 of the said Act, by which the Government of Kerala has appointed District and

Sessions Judges as the judicial authority within their respective jurisdiction for the purpose of the said Section, disposed of a similar writ petition setting aside an order similar to Ext.P5 and directing the District and Sessions Judge concerned to consider the appeal filed under the Essential Commodities Act. In the light of the judgment of this Court dated 01.12.2011 in W.P.(C) No.29862/2011, the petitioner is also entitled for a similar relief.

In such circumstances, the stand taken in Ext.P5 cannot be sustained. In the result, Ext.P5 is set aside and the District and Sessions Judge concerned is directed to consider Ext.P4 appeal, i.e., Appeal No.778/2009 on merits, in accordance with law, with notice to the parties.

This Writ Petition is disposed of as above.

sd/-
ANIL K. NARENDRAN,
JUDGE