

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 27TH DAY OF JANUARY 2015/7TH MAGHA, 1936

WP(C).No. 31562 of 2013 (U)

PETITIONER:

K.K.SIVANANDAN, AGED 45 YEARS,
S/O KRISHNANKUTTY, KUDILIL HOUSE,
KUNNATHERI, THAIKKATTUKARA P.O.,
ALUVA-6, ERNAKULAM DISTRICT.
(MEMBER, WARD NO.XI, CHOORNIKKARA
GRAMA PANCHAYATH (SPECIAL GRADE)
THAIKKATTUKARA P.O., ALUVA, ERNAKULAM)

BY ADV. SRI.K.S.MOHAMED HASHIM

RESPONDENT(S):

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1. THE DISTRICT COLLECTOR, ERNAKULAM,
CIVIL STATION, KAKKANAD P.O., KAKKANAD,
ERNAKULAM DISTRICT-682030.
 2. THE DISTRICT SUPPLY OFFICER,
ERNAKULAM CIVIL STATION, KAKKANAD P.O.,
KAKKANAD, ERNAKULAM DISTRICT-682 030.
 3. THE TALUK SUPPLY OFFICER,
ALUVA, LOURDES BUILDING, ALUVA P.O.,
ERNAKULAM DISTRICT-683 106.

*ADDL. R4 IMPEADED

4. A.M.ABDUL SALAM, ANJIKKATTU HOUSE,
SREEMOOLANAGARAM.P.O., ALUVA,
ERNAKULAM DISTRICT, PIN - 683 580.

ADDL. R4 IS IMPEADED AS PER ORDER DATED 5.11.2014 IN IA.14592/2014.

R1 TO R3 BY GOVERNMENT PLEADER SRI.K.C.VINCENT
ADDL.R4 BY ADV. SRI.E.D.GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27-01-2015 ALONG WITH WPC.34763/2014, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 31562 of 2013 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: A TRUE COPY OF THE RELEVANT PAGES OF THE RATION CARD DATED 24.12.2008 ISSUED IN THE NAME OF PETITIONER'S MOTHER.**
- EXHIBIT P2: A TRUE COPY OF THE PROCEEDINGS DATED 26.6.2012 OF THE 3RD RESPONDENT.**
- EXHIBIT P3: A TRUE COPY OF THE REPRESENTATION DATED 23.9.2013 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
- EXHIBIT P4: A TRUE COPY OF THE REPRESENTATION DATED 28.10.2013 SUBMITTED BY THE PETITIONER AND OTHERS.**
- EXHIBIT P5 : A TRUE COPY OF THE ORDER DATED 27.7.2014 OF THE 2ND RESPONDENT WHICH WAS RECEIVED BY THE PETITIONER ON 24.10.2014.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.R.RAMACHANDRA MENON, J.

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**W.P.(C) Nos.31562 OF 2013 &
34763 OF 2014**

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Dated this the 27th day of January, 2015

JUDGMENT

The issue involved in both these cases is in relation to the rights and liberties of the licensee to run A.R.D. No.192 at Kunnatheri in Choornikkara Panchayat. The petitioner in W.P. (C) No.34763/2014 seeks to implement the orders passed by the departmental authorities, ordering restoration of the licence of the petitioner. In the other case, the petitioner who is stated as a ration card holder and a ward member seeks to resist the same, pointing out that the licence was suspended thrice and hence the licensee might not be permitted to conduct the ration shop any further.

2. Heard both the sides including the learned Government Pleader.

3. The sequence of events narrated in W.P.(C) No.34763/2014 reveals that the said petitioner was running A.R.D. No.192 continuously for about 22 years. When the licence of the petitioner came to be suspended for not lifting some ration articles, he moved the concerned authority

pointing out the facts and figures including that he was hospitalised and was not in a position to lift the articles because of serious ailment and sought to restore the licence. After considering the matter, the licence was restored as per Ext.P2 proceedings dated 30.04.2012 of the 1st Respondent. In the meantime, the ration cards which were under the ration shop of the petitioner came to be attached with A.R.D. No.39 run by another person. After passing Ext.P2, the petitioner approached the concerned respondents for having them re-assigned/re-attached, which was sought to be resisted by a beneficiary card holder and the other A.R.D. licensee, supported by persons like the petitioner in W.P.(C) No.31562/2013. It was with this intent that the petitioner in W.P.(C) No.31562/2013 moved a Division Bench of this Court as well, by filing W.P.(C) No.34998/2011, styled as a Public Interest Litigation which was dismissed by this Court as per Ext.P1 judgment.

4. In the course of further proceedings, the petitioner in W.P.(C) No.34763/2014 was served with Ext.P5 memo of charges and the petitioner gave Ext.P6 reply as well. After considering the matter, the petitioner was exonerated from all

the charges as evident from Ext.P8 dated 27.07.2013. However, Ext.P8 order was not implemented, on the instructions given by the District Collector, at the instance of persons who were causing all the troubles and harassments to the petitioner, which compelled the petitioner to move this Court by filing W.P.(C) No.13528/2014. This case was disposed of as per Ext.P12 judgment, whereby the District Collector was directed to consider and finalise the matter in the manner as specified therein. Pursuant to this, the petitioner has approached the District Collector and filed Ext.P13 pointing out the actual facts and figures.

5. The learned counsel for the petitioner points out that the Collector, on getting convinced, permitted the Taluk Supply Officer (T.S.O) to proceed with further steps so as to implement Ext.P8 and thus Ext.P14 order was passed by the T.S.O on 14.08.2014. The petitioner was again compelled to approach this Court by filing a petition for police protection, by way of W.P.(C) No.28371/2014, wherein the petitioner in W.P. (C) No.31562/2013 was also included in the party array as the 5th respondent. The said writ petition was disposed of, directing the Sub Inspector of Police, Aluva to take necessary

steps on the complaint of the petitioner and to do the needful to enable the petitioner to operate the ration shop. Despite long lapse of time, the order is still to be implemented and the petitioner is virtually made to run from pillar to post. This made the petitioner again to approach by filing W.P.(C) No.34763/2014. As mentioned already, the attempt of the petitioner in the other case is to stall the implementation of the order passed in favour of the licensee who is running A.R.D. No.192.

6. The learned counsel for the petitioner in W.P.(C) No.31562/2013 submits that the Panchayat has already passed a resolution on 07.01.2015 to the effect that the licence might not be renewed in favour of the petitioner/licencee of A.R.D. No.192 and further that the said A.R.D. might not be permitted to be conducted in the very same premises where it was functioning earlier. A copy of the resolution has been forwarded to the District Collector as well.

7. A counter affidavit has been filed by the 1st respondent in W.P.(C) No.34763/2014, virtually conceding the sequence of events, however, pointing out that the ration shop A.R.D No.192 was functioning in Ward No.VII/694 (C) (old

No.VIII/270-A) of Choornikkara Panchayat till it was suspended and that, as on date, most of the card holders are in Ward No.XI. There is a counter affidavit filed in the other case as well and as borne out by paragraph 5, it is stated that the petitioner was directed to identify a suitable building within the limits of Ward No.XI of Choornikara Grama Panchayat, as most of the card holders are residing in the said ward.

8. The learned counsel for the petitioner points out that the petitioner has been running the A.R.D. in the building bearing No.XII/292 (old No.VII/694 C) of Choornikara Grama Panchayat and that the owner of the building has given the consent as borne by Ext.P18. The present attempt of the concerned respondent to drive the petitioner to some other ward, is only to protract implementation of the orders passed in favour of the petitioner.

9. After hearing both the sides, this Court finds that, at the time of suspension, the petitioner was conducting the A.R.D. No.192 in the building bearing No.XII/292 (old No.VII/694 C) of Choornikara Grama Panchayat and that the petitioner has been given the necessary consent by the owner of the building to have the ration shop conducted in the very

same building, as evident from Ext.P18. In so far as the suspension of licence stands revoked and it is restored as per Ext.P8 order passed by the District Supply Officer, followed by Ext.P14 by the T.S.O, all necessary steps are to be taken by the respondents concerned to enable the petitioner to conduct the ration shop in the very same building, in which he was doing the business at the time of suspension of licence. It is ordered accordingly. It shall be ensured that the petitioner starts ration shop in the said building within 10 days from the date of receipt of a copy of this judgment. Any failure in this regard will be treated as a lapse on the part of the respondents concerned and appropriate action may have to be initiated, if the order is not given effect to. The writ petition is disposed of accordingly.

In the light of the above discussion, this Court finds that there is absolutely no merit or bonafides in W.P.(C) No.31562/2013. It is dismissed accordingly, however, refraining from awarding any cost.

Sd/-

P.R.RAMACHANDRA MENON
JUDGE

St/-