

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

WP(C).No. 30381 of 2015 (W)

PETITIONER(S):

- 1. THE MALAPPURAM DISTRICT
RATION WHOLESALE DISTRIBUTERS FEDERATION, P.O.TIRUR
MALAPPURAM DIST
REPRESENTED BY ITS SECRETARY P.K.ABDUL KAREEM
S/O.P.SEETHI HAJI, GREENDS, ERANJIKODE PO
EDAVANNA, MALAPPURAM D.T. 676 541.**
- 2. P.K.ABDUL KAREEM, MANAGING PARTNER
ERNAD WHOLESALERS (AWD NO.9), WANDOOD
MALAPPURAM DIST.**
- 3. P.ABDULLAKUTTY (AWD NO.6)
GOVERNMENT AUTHORISED WHOLESALE DISTRIBUTERS
UCHARAKADAVU, MELATTUR, MALAPPURAM DT.**
- 4. THE ANGADIPPURAM SERVICE CO-OPERATIVE BANK LTD NO. P- 581
REPRESENTED BY ITS SECRETARY, ANGADIPPURAM PO
MALAPPURAM 679 321.**
- 5. P.K.MOHAMMED ASHARAF (AWD NO.5)
AUTHORIZED WHOLESALE DISTRIBUTOR, MAKKARAPARAMBA
MALAPPURAM DIST.**
- 6. THE MANJERI P.C.C. MARKETING SOCIETY LTD NO. F 1187
REPRESENTED BY ITS SECRETARY, MANJERI
MALAPPURAM DIST. 676 121.**
- 7. K.P.MUHAMMED BASHEER
MANAGING PARTNER
P.K.M.WHOLESALE AGENCIES (AWD NO.3), MANJERI
MALAPPURAM DIST.**

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WP(C).No. 30381 of 2015 (W)

8. K.P.LALU ISHIHARA
MANAGING PARTNER, MALABAR WHOLESALERS (AWD NO.2)
MANJERI, MALAPPURAM DIST.
9. N.HYDERALI (AWD NO.8)
AUTHORIZED WHOLESALE DISTRIBUTOR, EDAKKARA
MALAPPURAM DISTRICT.
10. A.SAFIYA
MANAGING PARTNER, ABOOBACKER & CO, (AWD NO.7)
NILAMBUR, MALAPPURAM DIST.
11. K.P.SAKEENA, MANAGING PARTNER
K.P.M.AGENCIES
GOVERNMENT AUTHORIZED WHOLESALE DISTRIBUTERS
HOSPITAL ROAD, PERINTHALMANNA, MALAPPURAM 679 322.
12. K.P.MOHAMMEDALI HAJI
GOVERNMENT RECOGNIZED RATION WHOLESALE DISTRIBUTER
DOWN HILL, MALAPPURAM 676 519

BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH

RESPONDENT(S):

1. THE FOOD CORPORATION OF INDIA
REPRESENTED BY ITS MANAGING DIRECTOR
HEAD QUARTERS 16-20, BARAKHAMBHA LANE
NEW -DELHI 110001
2. THE GENERAL MANAGER - KERALA
FOOD CORPORATION OF INDIA , REGIONAL OFFICE
KESAVADASAPURAM, PATTOM PALACE PO,
THIRUVANANTHAPURAM- 6950004.
3. THE COMMISSIONER OF CIVIL SUPPLIES
COMMISSIONERATE OF CIVIL SUPPLIES, VIKAS BHAVAN PO
TRIVANDRUM 695 033.
4. THE DISTRICT COLLECTOR, MALAPPURAM
COLLECTORATE, CIVIL STATION, UP - HILL
MALAPPURAM 676 505.

CONTD .. 3 ..

WP(C).No. 30381 of 2015 (W)

5. THE DISTRICT SUPPLY OFFICER
MALAPPURAM, DISTRICT SUPPLY OFFICE, CIVIL STATION
UP - HILL, MALAPPURAM 676 505.

6. THE STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
DEPARTMENT OF FOOD
CIVIL SUPPLIES AND CONSUMER AFFAIRS GOVERNMENT
SECRETARIAT
THIRUVANANTHAPURAM 695 001.

7. THE GOVERNMENT OF INDIA
REPRESENTED BY SECRETARY TO GOVERNMENT
MINISTRY OF AGRICULTURE AND CONSUMER AFFAIRS
KRISHIM BHAVAN, NEW DELHI 110001.

R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R BY GOVERNMENT PLEADER SMT. A. LOWSY
R BY SMT.MOLLY JACOB,SC,SUPPLYCO
R BY SRI.VARGHESE M.EASO, SC, FOOD CORPORATION OF INDIA
R BY SRI. TULASI PANICKER, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1- TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN ONE OF
THE MEMBER OF THE 1ST PETITONER ASSOCIATION
- EXT.P2- TRUE COPY OF THE REQUEST MADE BY THE 2ND PETITONER
- EXT.P3- TRUE COPY OF THE REQUEST MADE BY THE 3RD PETITONER
- EXT.P4- TRUE COPY OF THE REQUEST MADE BY THE 3RD PETITONER
- EXT.P5- TRUE COPY OF THE REQUEST MADE BY THE 4TH PETITIONER
- EXT.P6- TRUE COPY OF THE REQUEST MADE BY THE 4TH PETITONER
- EXT.P7- TRUE COPY OF THE REQUEST MADE BY THE 5TH PETITIONER
- EXT.P8- TRUE COPY OF THE REQUEST MADE BY THE 6TH PETITIONER
- EXT.P9- TRUE COPY OF THE REQUEST MADE BY THE 6TH PETITIONER
- EXT.P10- TRUE COPY OF THE REQUEST MADE BY THE 7TH PETITIONER
- EXT.P11- TRUE COPY OF THE REQUEST MADE BY THE 7THE PETITIONER
- EXT.P12- TRUE COPY OF THE REQUEST MADE BY THE 8TH PETITONER
- EXT.P13- TRUE COPY OF THE REQUEST MADE BY THE 8TH PETITIONER
- EXT.P14- TRUE COPY OF THE REQUEST MADE BY THE 9TH PETITONER
- EXT.P15- TRUE COPY OF THE REQUEST MADE BY THE 10TH PETITONER
- EXT.P16- TRUE COPY OF THE REQUEST MADE BY THE 11TH PETITIONER
- EXT.P17- TRUE COPY OF THE REQUEST MADE BY THE 12THE PETITIONER

RESPONDENT(S)' EXHIBITS

// TRUE COPY //

PA TO JDUGE

SB

K. VINOD CHANDRAN, J.

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W.P.(C) No.30381 of 2015 - L

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Dated this the 7th day of October, 2015

J U D G M E N T

The petitioners are aggrieved with the fact that on the closure of the Food Corporation of India godown at Angadippuram, the petitioners were obliged to take the materials for distribution, under the Public Distribution System, from the godowns at Calicut and Palakkad. The petitioners have filed representations for reimbursing the additional transportation charges from the said godowns. A series of representations have been filed indicated at Exts.P2 to P17 by the various petitioners herein, who are Authorised Wholesale Distributors (AWDs).

2. The learned Standing Counsel for the FCI contends that essentially the dispute raised is a question of fact, as to the materials transported, the distance, quality other aspects would have to be looked into on the reference to the terms of the contract; which would have to be considered first by the authority.

3. The petitioners in fact take the goods, from the godown of the FCI as AWDs appointed by the State. In such circumstance, it is only proper that the representations filed before the 3rd respondent be taken up and notice issued to the 2nd respondent as also the petitioners before a hearing is conducted. The 3rd respondent shall consider the issue and pass orders after affording an opportunity of hearing to the petitioners, within three months from the date of hearing. The 2nd respondent would be entitled to take up all contentions before the 3rd respondent and this judgment need not be taken as one conferring authority on the 3rd respondent, if it is clearly lacking.

The writ petition is disposed of.

Sd/-
K. VINOD CHANDRAN,
JUDGE

SB/07/10/2015

// true copy //

P.A to Judge.