

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2017

CORAM

THE HONOURABLE Mr. JUSTICE D.KRISHNAKUMAR

W.P.No.24285 of 2016
and WMP.Nos.20762 & 30135 of 2016

S.Latchavathi

...Petitioner

-vs-

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Joint Registrar of Co-op. Societies,
Thiruvallur District,
Thiruvallur.
3. P.Srinivasan
MGR Youth Wing President
Perumalpattu Village & Post,
Thiruvallur Taluk & District - 602 104.

....Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records relating to the impugned proceedings No.Na.Ka.Ka.20719/2015/S-2 dated 02.07.2016, passed by the District Collector, Thiruvallur, the first respondent herein and to quash the same.

For Petitioner : Mr.G.Thilagaraj
For Respondents : Mr.L.P.Shanmugasundaram
Spl. Government Pleader [RR1 & 2]
Mr.Manimaran [R3]

O R D E R

The petitioner has filed this petition to call for the records relating to the impugned proceedings No.Na.Ka.Ka.20719/2015/S-2 dated 02.07.2016, passed by the District Collector, Thiruvallur, the first respondent herein, and to quash the same.

2. The petitioner is a Sales Woman in Annai Theresa Magalir Suya Udhavi Kuzhu and there were about 14 members working in that Kuzhu. Pursuant to G.O.(Ms)No.254 Co-operation, Food and Consumer Protection Department, dated 06.11.2000, functioning of fair price shops were entrusted to Magalir Suya Udhavi Kuzhu. Accordingly, Annai Theresa Magalir Suya Udhavi Kuzhu was also opted to run fair price shop in Shakthi Nagar, Perumalpattu Village, as per the norms and guidelines issued by the first respondent vide order dated 27.07.2009. According to the petitioner, based on the complaint given by the third respondent, the first respondent-District Collector, Thiruvallur, vide her proceedings dated 13.06.2016, has directed the petitioner to appear for enquiry on 21.06.2016, without furnishing a copy of the said complaint. Thereafter, the first respondent vide proceedings in Na.Ka.No.20719/2015/S2 dated 02.07.2016, had cancelled the permission granted to Annai Theresa Magalir Suya Udhavi Kuzhu to run the fair-price shops and subsequently the fair price shop was handed over to the second respondent, directing them to run the aforesaid fair-price shop by appointing new sales person. The said impugned order was served on to the petitioner also.

3. The learned counsel appearing for the petitioner would submit that enquiry was conducted by the first respondent without furnishing a copy of the complaint, and even after enquiry no opportunity was given to the petitioner to prove her case. He would further submit that stock checking and auditing was conducted by the Taluk Civil Supplies Officer in the said AP-179 Fair-price shop and the said official submitted a report on 15.06.2016, which proved that the stock and ledger books were maintained properly by the petitioner-Magalir Suya Udhavi Kuzhu. According to the petitioner, the allegations made against her is based on a concocted complaint emanated out of personal grudge. The petitioner has also made a representation on 12.07.2016 to the first respondent, requesting to cancel the impugned order dated 02.07.2016. The cardholders of the said Kuzhu have also sent a representation dated 12.07.2016, requesting to cancel the impugned order, which itself proves that Annai Theresa Magalir Suya Udhavi Kuzhu is running the fair price shop satisfactorily.

4. It is also brought to the notice of this Court by the learned counsel for the petitioner that even in the impugned order, reference was made to the report dated 15.06.2016 submitted by the Taluk Civil Supplies Officer, wherein also only instructions were given to the sales person to disclose the stock particulars and mobile nos. of the sales person on the notice board and there was no mention about the complaint from the villagers with regard to the running of the said petitioner's fair price shop.

5. On the contrary, the learned Special Government Pleader would submit that petitions dated 12.12.2014, 16.12.2014, 20.02.2015 and 18.08.2016 of the residents and welfare associations of Sakthi Avenue, Om Sakthi Nagar, Venkatachalapathy Nagar and Ramana Nagar located at Perumalpattu Village in Tiruvallur District were received by the District Collector with regard to the running of the fair-price shops in unfair manner. He would further submit that based on the complaints received from the residents and welfare associations of the aforesaid area, the petitioner as well the complainants were called to attend the enquiry on 21.06.2016 before the first respondent-District Collector, Thiruvallur and their statements were recorded, which proves that an opportunity was granted to the petitioner. By considering the gravity of allegations levelled against the petitioner's self-help group in the complaint given by the residents and the welfare associations, the first respondent has passed the impugned order in public interest.

6. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and also perused the materials available on record.

7. On a perusal of the records, it is alleged that complaints were received from the residents and welfare associations by the first respondent-District Collector and he recorded their statements. However, the report of the Taluk Civil Supplies Officer was not enclosed in the typed set of papers or in the counter, but only a portion of the said report dated 15.06.2016 was recorded in the impugned order which only discloses that the petitioner-Kuzhu was directed to place the stock details and phone nos. of the sales person on the notice board, as per the instructions issued by the authorities concerned, but there was no mention about the running of the fair price shops with inferior quality materials etc., Therefore, the learned counsel for the petitioner would submit that in the report dated 15.06.2016, the petitioner's Kuzhu was merely advised to follow the instructions issued by the authority, and no allegations were made against the petitioner's Kuzhu.

8. The learned Special Government Pleader would submit that the complaints made against the Kuzhu should be viewed in a very serious manner, since the petitioner-Kuzhu is a public distribution unit catering the needs of the residents of that area. Therefore, the District Collector conducted an enquiry and passed the impugned order in the light of public interest.

9. However, the learned counsel for the petitioner has rightly pointed out that after the enquiry neither an opportunity was given to the petitioner with regard to the complaint made by the residents nor any report has been produced by the authority concerned to the petitioner in order to defend the said complaint. There is no finding in the impugned order about the allegations made in the complaint. Therefore, the impugned order passed by the first respondent violates the principles of justice, as no opportunity was granted to the petitioner-Kuzhu.

10. In the light of the above facts and circumstances of the case, this Court has no hesitation to set aside the impugned order passed by the first respondent, however, liberty is granted to the first respondent to conduct a detailed enquiry in accordance with law. During enquiry, if any documents are required for perusal, the respondents shall furnish the same to the petitioner and pass final orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order after, providing opportunities to the parties concerned.

11. The Writ Petition is allowed with the above directions. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To:

1. The District Collector,
Thiruvallur District,
Thiruvallur.
2. The Joint Registrar of Co-op. Societies,
Thiruvallur District,
Thiruvallur.

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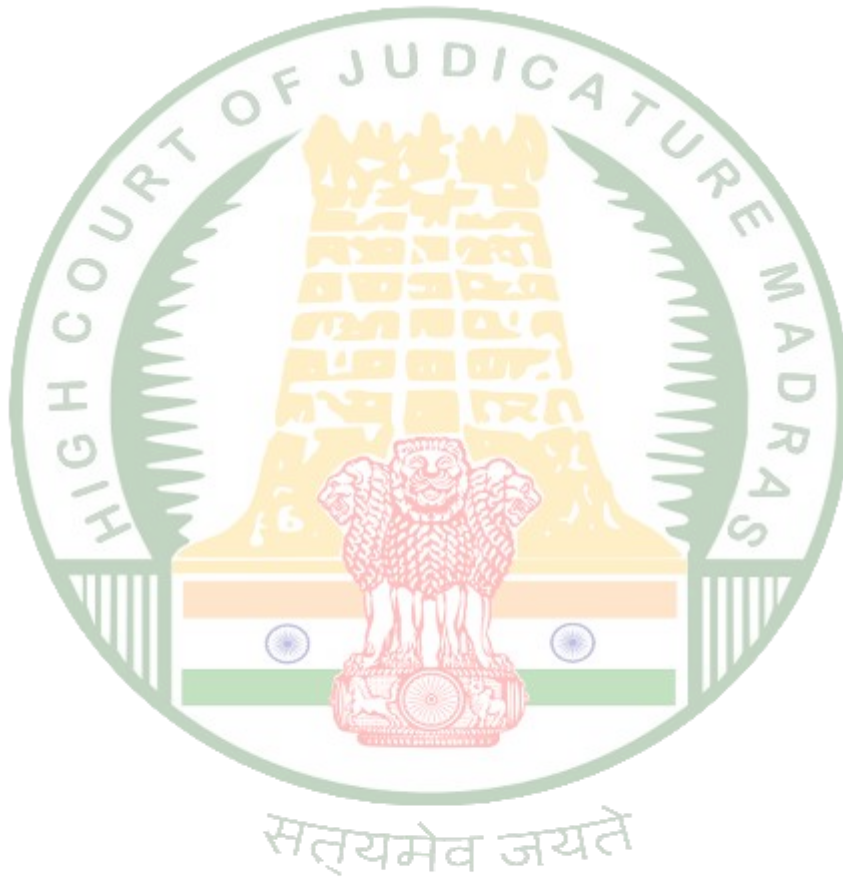
+1cc to Mr.K.Manimaran, Advocate Sr. 20000

+2ccs to Mr.J.Thilagraj, Advocate Sr. 19996

+1cc to the Government Pleader Sr. 20100

W.P.No.24285 of 2016

VR(13/6/2017)



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