



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD) No.2 of 2017
and
C.M.P.(MD) No.19 of 2017

1. The Commissioner,
Civil Supplies and Consumer Protection,
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The Registrar of Co-operative Societies,
N.V.Natarajan Maligai,
170, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.
3. The District Collector,
Kanyakumari Campus,
Nagercoil.
4. The District Supply Officer,
Collectorate Campus,
Nagercoil.
5. The Taluk Supply Officer,
Agasteswaram Taluk,
Collectorate Campus,
Nagercoil.
6. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Kanyakumari Region,
Konam,
Nagercoil.
7. The Assistant Director of Fisheries,
Vadasery,
Nagercoil

.. Appellants/Respondents 1 to 7

**Vs.**

1.K.Kumariselvan
2.J.Jayson Mahesh
3.Vinoth
4.Jayasekar
5.S.Krishna Moorthi

... Respondents 1 to 5/Writ Petitioners

6. Omen Agate Systems Private Limited,
Represented by its Executive Officer,
No.99, II Floor, MNO Complex,
Greams Road,
Chennai - 600 006.

... 6th Respondent/8th Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent, to set aside the order dated 03.10.2016, in W.P.(MD) No.18924 of 2016.

Prayer in WP(MD) . 18924/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to provide with a complete computer device with keyboard, having bill delivery system to PDS Shops, instead of the present billing device provided by the 8th respondent.

For Appellants : Mr.T.S.Mohammed Mohideen, AGP

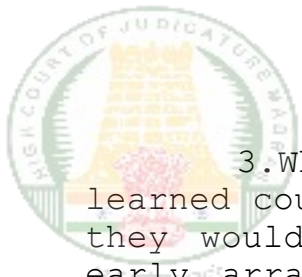
For Respondents : Mr.P.Ranjitham,
for Mr.C.T.Perumal

JUDGMENT

[Judgment of the Court was made by G.R.SWAMINATHAN, J.]

The Commissioner of Civil Supplies and Consumer Protection, Chennai-5 and others have preferred this Writ Appeal challenging the order dated 03.10.2016 made in W.P.(MD) No.18924 of 2016.

2.The respondents 1 to 5 herein are working in the Fair Price Shop run by the Appellants herein. According to the Writ petitioners / respondents 1 to 5, it is necessary to provide computers with keyboard and bill delivery system for effectively manning the Fair Price Shop. The present billing machines supplied by the 8th respondent in the writ petition is not sufficient for effectively discharging their duties. They had already submitted a representation dated 03.09.2016 to the first appellant herein. Since it was not disposed of, they had moved this Court under Article 226 of the Constitution of India.

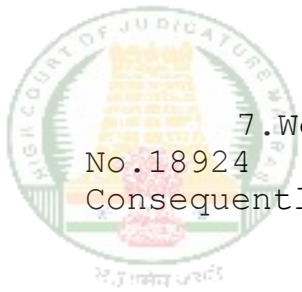


3. When the Writ Petition was taken up for disposal, the learned counsel representing the official respondents submitted that they would consider the representation dated 03.09.2016 and make early arrangements for providing a complete computer device with internet facility. This undertaking was recorded and the writ petition was disposed of, directing the authorities to comply with the demand made in the writ petitioners' representation dated 03.09.2016 within a period of six weeks from the date of receipt of a copy of that order. Aggrieved by the said directions, the present Writ Appeal has been filed.

4. Even though the writ petition was disposed of and direction was given only based on the undertaking given by the Government Advocate, representing the official respondents, still it cannot be stated that this writ appeal is not maintainable. Only the Advocate General of the State is authorised to make concession or give undertakings on behalf of the State Government. It is not open to the other law officers and Government Advocates to give undertaking of this nature, which has serious final implication. In any event, the learned Judge was clearly in error in recording the said undertaking and straightaway issuing a direction on that basis.

5. The writ Petition was filed on 21.09.2016. The writ petition itself was disposed of on 03.10.2016. Therefore, a ground has been taken in this writ appeal to the effect that the writ petition ought not to have been allowed at the admission stage without affording an opportunity to the appellants to put forth their case by filing an appropriate counter. Supplying of computer device with key board facility to all PDS Fair Price Shops is certainly a policy decision that can be taken only by the Government. This Court while exercising jurisdiction under Article 226 of Constitution of India, cannot issue mandamus directing the Government to frame policy in a particular manner.

6. The learned Judge also ought to have seen that the Writ Petitioners are Salesmen working in five fair price shops. It is not open to them to seek direction for the entire State. It was not a public interest litigation. Issues such as *locus standi* and the limits of the jurisdiction under Article 226 of Constitution of India were not taken note of while holding the appellants to the undertaking which the Government Advocate was not competent to give. We may note yet another feature in the order under appeal. The Writ Petition was filed for directing the authorities to provide the salesmen with a complete computer device with key board having delivery system to the PDS shops. While disposing of the writ petition, direction has been given for providing internet facilities also. We are of the view that the learned single Judge exceeded the jurisdiction while entertaining the writ petition. In any event allowing a writ petition of this nature at the admission stage was clearly not proper.



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7. We therefore set aside the order passed in W.P.(MD) No.18924 of 2016 and allow this Writ Appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

+ 1 CC TO Mr.C.T.PERUMAL, ADVOCATE IN SR No.67514
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 67889

SKM

TE/JC/SAR-I : 22/08/2017 : 4P/3C

ORDER MADE IN
W.A.(MD) No.2 of 2017 and
C.M.P.(MD) No.19 of 2017
24.07.2017