

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2018

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.1395 & 1396 of 2018
and
W.M.P.Nos.1763 to 1765 of 2018

V.Kavitha
Wife of Veerasamy
Aavin Parlour Agent
Central Bus Stand,
Udhagamandalam,
Nilgiris District. ... Petitioner in W.P.1395/2018

V.Pushparani
Wife of K.Velusamy
Aavin Parlour Agent
Central Bus Stand (Outside),
Udhagamandalam,
Nilgiris District. ... Petitioner in W.P.1396/2018

Vs.

The Nilgiris District Co-operative
Milk Producers Union Limited
represented by its
Managing Director,
Coonoor Road,
Udhagamandalam,
Nilgiris District. ... Respondent in both the W.Ps.

Writ petitions are filed under Article 226 of the
Constitution of India, to issue a Writ of Certiorari calling
for the records in respect of the impugned order dated
17.01.2018 made in Na.Ka.No.01/Sales/Agent/2017 issued by the
respondent herein and quash the same.

For Petitioners : Mr.A.K.Sriram
for Mr.V.RAjesh

For Respondent : Mr.G.Munirathnam

COMMON ORDER

Both these petitioners are the agents of the respective Milk Parlours under the respondent. They have established their Milk Parlours, one at Central Bus stand, Uthagamandalam and the other at a place opposite to Central Bus stand, Uthagamandalam. They are aggrieved against the order passed by the respondent on 17.01.2018, cancelling their respective license with effect from 22.01.2018. The reasons stated in the impugned order for such cancellation are that the petitioners were showing interest only in selling other eatables with coffee and tea than selling the milk and milk products of the respondent, for which, the license was issued and that the Food Alteration Officer has given a report that these petitioners are indulging in selling the adulterated tea to the public.

2. Mr.A.K.Sriram, learned counsel appearing for the petitioners submitted that, apart from the fact that the reasons set out in the impugned orders are factual incorrect, the cancellation of the license itself was without giving opportunity of hearing to the petitioners and thus, cannot be sustained as it violates the principles of natural justice.

3. On the other hand, the learned counsel for the respondent, after filing a counter affidavit, has submitted that the petitioners were issued with repeated warning notices and however, they failed to correct themselves and ensure the food safety. Therefore, he submitted that when the petitioners were found selling tea to the customers using adulterate tea dust which is hazard to the public health, the termination of the license was imminent and therefore, the petitioners are not entitled to question the same.

4. Heard both sides.

5. It is not in dispute that these petitioners have obtained license from the respondent for establishing their respective Milk Parlours in the above said areas. However, the respondent has chosen to cancel the license on the ground that the petitioners have violated the conditions of license and also have indulged in selling adulterated tea to the public. When such serious allegations are made against the petitioners, needless to state that they must be given an opportunity to meet those allegations and putforth their case. No doubt, it is stated by the respondent that they have issued several warning notices to the petitioners. Perusal of those warning notices would clearly indicate that there is a clear and categorical finding rendered against the petitioners of violation of conditions as well as selling of adulterated tea. Therefore, it is to be construed that those notices are themselves orders passed without hearing the petitioners and hence, the same

cannot be construed as notices issued to the petitioners to show cause. Under such circumstances, this Court is of the considered view that these petitioners must be given an opportunity to put forth their case before the respondent against the allegations made in the impugned proceedings. Therefore, the impugned order is to be treated as a show cause notice issued to the petitioners, so as to enable them to file their explanation and thereafter, it is for the respondent to pass final orders once again on merits and in accordance with law. Thus, the writ petition is disposed of as follows:

(a) The respondent shall treat the impugned proceedings as a show cause notice issued to the petitioners.

(b) The respective petitioners shall give their explanation within a period of two weeks from the date of receipt of a copy of this order.

(c) On receipt of such explanation, the respondent will conduct an enquiry by giving due opportunity of personal hearing to the petitioners and pass appropriate orders on merits and in accordance with law within a period of two weeks thereafter.

(d) Till such time, the status quo as on today shall be maintained by both the parties.

It is made clear that this Court is not expressing any view on the merits of the allegations made against the petitioners as it is for them to prove their innocence before the respondent at the time of enquiry. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi

To

Managing Director,
The Nilgiris District Co-operative
Milk Producers Union Limited
Coonoor Road,
Udhagamandalam,
Nilgiris District.

+2cc to Mr.V.Rajesh, Advocate, S.R.No.12810,12811

+2cc to Mr.G.Munirathnam, Advocate, S.R.No.12813

W.P.Nos.1395 & 1396 of 2018

RK(CO)

RRK(08/03/2018)