

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.13869 of 2008
and M.P.No.2 of 2008

Jawahar Basha

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Govt.,
Co-operation, Food and Consumer
Protection Department, Fort St. George,
Chennai - 9.

2. The Commissioner of Civil Supplies
& Consumer Protection Dept.,
Chepauk, Chennai - 5.

3. The District Supply Officer,
Perambalur District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records leading to the issue of G.O.Ms.No.337, Cooperation, Food & Consumer Protection Department., dated 01.11.2004, on the file of the 1st respondent, and the consequential instructions of the 2nd respondent contained in Lr.No.K4/39857/2004, dated 29.11.2004, as being contrary to the Judgment of the Supreme Court in Civil Appeal Nos.8148-8152/2003, dated 06.10.2003, and consequently, direct the respondents to continue with the supply of kerosene to the petitioner either by issuing or renewing their Registration Certificate.

For Petitioner : Mr.P.Solomon Francis

For Respondents : Mr.R.S.Selvam
Government Advocate

ORDER

This Writ Petition has been filed to call for the entire records leading to the issue of G.O.Ms.No.337, Cooperation, Food & Consumer Protection Department., dated 01.11.2004, on the file

of the 1st respondent, and the consequential instructions of the 2nd respondent contained in Lr.No.K4/39857/2004, dated 29.11.2004, as being contrary to the Judgment of the Supreme Court in Civil Appeal Nos.8148-8152/2003, dated 06.10.2003, and consequently, to direct the respondents to continue with the supply of kerosene to the petitioner either by issuing or renewing their Registration Certificate.

2. The petitioner would submit that he is a retail dealer of kerosene holding Registration Certificate No.4/74, which was valid upto 31.12.2010. His father, namely Mr.Syed Basha, died on 21.05.2008 and hence, the petitioner has approached the 3rd respondent for issuance of new Registration Certificate in his favour, for which, the 3rd respondent has shown him the copy of the Government Order, wherein, it has been stated that the registration certificate can be renewed only to the legal heirs of persons who died between the period 24.02.1999 and 06.10.2003, and thereafter, it should not be permitted to renew.

3. Challenging the said order of the 1st respondent and the circular of the 2nd respondent herein, Writ Petitions in W.P.No.11022 of 1999 etc., batch have been filed before this Court and the same were dismissed by the learned Single Judge. As against which, Writ Appeals have been filed before the Division Bench of this Court and the same were allowed, directing the respondents to renew the registration certificates in terms of the circular.

4. Aggrieved by the order of this Court, the respondents took up the matter to the Honourable Supreme Court by way of Civil Appeal Nos.8148 of 2003 etc., batch. By order dated 06.10.2003, the Honourable Supreme Court has passed an order, directing the respondents to renew the registration certificate in favour of the legal heirs, whose registration certificates are valid and subsisting on the date of the original registration certificate holder. Based on the said Judgment vide G.O.Ms.No.337 dated 01.11.2004, the respondents were directed to renew the registration certificates in favour of the legal heirs, where the original Registration Certificate holder died before 24.02.1999 and not to renew, where the original Registration Certificate holder died after 06.10.2003. Challenging the same, many retailers have filed Writ Petitions before this Court in W.P.Nos.14644 of 2005 etc., batch and the same were allowed by this Court.

5. Aggrieved by the same, the respondents have filed Writ Appeals in W.A.No.1445 to 1459 of 2006 before the Honourable Division Bench of this Court and the same were disposed of on 14.03.2008, wherein, para 5 of G.O.Ms.No.337 dated 01.11.2004 and the consequential circular issued by the 2nd respondent on

29.11.2004, were quashed and the respondents were divided to consider the application of the petitioners (legal heirs) therein and also those who have not approached this Court, for renewal of their licenses. The said Judgment squarely applies to the facts of the present case. However, the respondents have not passed any fresh order, but, refusing to renew the registration certificates in favour of the petitioner. Hence, with no other alternative, the petitioner has filed the present Writ Petition.

6. When the matter was taken up on 13.06.2008, this Court has granted interim injunction restraining the respondents and any officials on their behalf from interfering with the supply of kerosene. When the matter was taken up for final disposal in the month of June 2018, the learned Government Advocate was directed to get instructions in this regard. Accordingly, when the matter is taken up today i.e., on 26.06.2018, the learned Government Advocate has produced the proceedings of the Commissioner, Civil Supplies and Consumer Protection Department, Chennai, in Rc.No.D1/13346/2018, dated 19.06.2018, by which, permission were granted to the petitioner for renewal of his licence and the prayer of the petition has already been complied with in the year 2009 itself.

7. Based on the above submissions and the materials produced by the learned Government Advocate, the Writ Petition is dismissed as infructuous. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Govt.,
Co-operation, Food and Consumer
Protection Department, Fort St. George,
Chennai - 9.

2. The Commissioner of Civil Supplies
& Consumer Protection Dept.,
Chepauk, Chennai - 5.

3. The District Supply Officer,
Perambalur District.

+1cc to Government Pleader SR.NO..No.40971

+2cc to Mr.P.Solomon Francis, Advocate SR.NO.40343

SS (CO)

sm:13.8.2018

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and M.P.No.2 of 2008



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