

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.28053 of 2013 &
W.M.P.No.7865 of 2018

Vetri Mahalir Self Help Group,
Rep. by its President J.Jayalakshmi
No.76, Peramanur,
Chingleput Taluk,
Kancheepuram District.

... Petitioner

Vs

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Joint Registrar (Cooperative Societies),
Kancheepuram.
3. The Deputy Registrar (Public Distribution System),
Kancheepuram.
4. The Taluk Supply Officer,
Chingleput.
5. Usha Murugan,

... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records relating to the proceedings of the first respondent in M.M.No.5812/2013/S2, dated 23.09.2013 (served on the petitioner on 04.10.2013) quash the same.

For Petitioner : Mr.M.Sivavarthanan

For Respondents : Mr.B.Anand
Government Advocate for R1 & R4

Mrs.T.Girija
Government Advocate for R2 & R3

Mr.M.Balasubramanian for R5

O R D E R

Challenge in this Writ Petition is the order of the first respondent, dated 23.09.2013, cancelling the permission granted in favour of the petitioner and three other Self Help Groups to run a retail outlet fair price shop at No.76, Peramanur Village, Maraimalainagar, Chingelput Taluk in Kancheepuram District.

2. According to the petitioner, the petitioner Self Help Group along with three other Self Help Groups, viz., Ganga, Yamuna, and Cauvery applied for running the retail outlet fair price shops pursuant to G.O.Ms.No.63, dated 11.03.1997 and G.O.Ms.No.254, Co-operative and Consumer Protection Department, dated 06.11.2000. The first respondent accorded permission to them and thereby they have been running the fair price shops from the year 2001.

3. The petitioner would further state that the Taluk Supply Officer, the fourth respondent herein conducted an inspection on 27.02.2012 and found that the Fair Price Shop is run properly. It is alleged that in the local body election conducted in the year 2011, the President of Yamuna Women Self Help Group contested against the fifth respondent for the post of Councilor and thereafter, complaints were made against the Self Help Groups, stating that the fair price shops are not opened regularly and the ration articles are not supplied to the cardholders.

4. It seems that in pursuance of the complaint made by the fifth respondent, dated 14.04.2012, the respondents initiated proceedings against the petitioner and eventually by the impugned order, the permission granted in favour of the petitioner and three other Self Help Groups for running the fair price shops were cancelled and the respondents 2 and 3 / the Joint Registrar (Co-operative Societies) and the District Registrar (Public Distribution System), Kancheepuram, were directed to run the fair price shops.

5. The impugned order is challenged by the petitioner mainly contending that no opportunity was given before passing the impugned order and the entire allegations made against the petitioner are false.

6. A counter affidavit has been filed by the first respondent denying the allegations levelled against the official respondents. It is further stated that the fourth respondent conducted a detailed enquiry in the Village and on the basis of the statement of the common public, on 08.11.2011 found shortage of materials in the fair price shops. Since the PDS was found defective with the petitioner, the natural course of action was

taken to allow the Co-operative Societies to maintain the shop.

7. A separate detailed counter affidavit has been filed by the fifth respondent stating that the petitioner, who is running the fair price shop, belongs to a particular party and most of the times, the shop was found closed and they failed to supply ration articles for the needy people. It is further stated that the District Collector and the Officials conducted an enquiry based on the complaint given by the general public and also an agitation was held in front of the shops on 14.08.2013, which was also published in the newspapers.

8. Heard the rival submissions on either side and carefully perused the materials available on record.

9. In the case on hand, it is not in dispute that a permission has been granted in favour of the petitioner and three other Self Help Groups for running the retail outlet of fair price shops at No.76, Peramanur Village, Maraimalainagar, Chingelput Taluk in Kancheepuram District. It is a case of the petitioner that the shop is being run by the self help groups without any complaints since 2011 and also during the inspection conducted by the Taluk Supply Officer in the year 2012, no incriminating materials were found against the petitioner. It is not disputed by the respondents that in the local body election conducted in the year 2011, the fifth respondent contested against the President of the Yamuna Women Self Help Group and only thereafter in the year 2012 and 2013, complaints were given, alleging some irregularities in running the fair price shops.

10. Even though in the counter affidavit filed by the first respondent, it is contended that the fourth respondent conducted a detailed enquiry on 08.11.2011 and found shortage of materials and he obtained report from the common public, indisputably, the petitioner was not given opportunity to participate in the enquiry proceedings. It is not out of place to mention that according to the petitioner during the inspection conducted in the year 2012, no adverse remarks were made against the petitioner.

11. The learned counsel for the fifth respondent has also referred the enquiry notice issued to the fifth respondent to participate in the enquiry proceedings. But, no materials have been placed on record to show that a similar notice was sent to the petitioner to participate in the enquiry. When the petitioner has been running the fair price shop along with three other self-help groups for more than 10 years without complaints and only after the local body election in the year 2011, the fifth respondent made a complaint against the petitioner, they

are entitled to be heard before taking a final decision. Even in the counter affidavit filed by the respondents, it is not specifically stated about the participation of the petitioner in the enquiry proceedings. When the respondents are making allegation against the petitioner, in my considered opinion that the petitioner is entitled to be heard before passing final orders.

12. For the reasons stated supra, the order impugned in this Writ Petition is set aside on the sole ground of violation of principles of natural justice and the matter is remanded back to the first respondent, who shall pass orders afresh, after providing ample opportunity to the petitioner and other necessary parties in accordance with law. Accordingly, the Writ Petition is allowed. There is no order as to costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

r n s

To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The Joint Registrar (Cooperative Societies),
Kancheepuram.
3. The Deputy Registrar (Public Distribution System),
Kancheepuram.
4. The Taluk Supply Officer,
Chingleput.

+1cc to Mr.M.Balasubramanian Advocate, S.R.No.67492
+1cc to Mr.M.Sivavarthan, Advocate, S.R.No.67382
+1cc to the Government Pleader, S.R.No.68070

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PA(CO)
CS/27/09/2019