IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 20TH DAY OF OCTOBER 2020 / 28TH ASWINA, 1942

WP(C).NO.19793 OF 2020(Y)

PETITIONER:

M.ANITHA
AGED 41 YEARS
W/O.SANTHOSH, PULARI PILAPPUZHA MURI, VAZHUTHANAM, PALLIPADU VILLAGE, KARTHIKAPALLY TALUK, ALAPPUZHA DISTRICT.

BY ADV. SRI.K.R.SUNIL

RESPONDENTS:

1. **THE STATE OF KERALA**
   REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN-695001.

2. **THE KERALA STATE COMMISSION FOR SCHEDULE CASTES AND SCHEDULED TRIBES,**
   THIRUVANANTHAPURAM, PIN-695004.

3. **THE SECRETARY,**
   CIVIL SUPPLIES DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM, PIN-695001.

4. **THE COMMISSIONER OF CIVIL SUPPLIES,**
   CIVIL SUPPLIES DEPARTMENT, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM, PIN-695001.

5. **THE DISTRICT SUPPLY OFFICER,**
   ALAPPUZHA DISTRICT, ALAPPUZHA, PINCODE-688013.

6. **THE TALUK SUPPLY OFFICER,**
   KARTHIKAPPALLY TALUK, KARTHIAPPALLY, PINCODE-690516.

OTHER PRESENT:

SMT.PRINCY XAVIER, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20.10.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Petitioner is aggrieved by the action of the respondents 1 and 3 to 6 in not awarding the ARD license to her. She belongs to scheduled caste community. She had submitted her application pursuant to Ext.P1 notification No.CS 5.2392/2014 issued on 18.11.2014, inviting applications from among eligible members of SC/ST communities for appointment as authorized retail Dealer for conducting a ration Depot in Ward No.6 of Pallipadu Grama Panchayat in Karthikapally Taluk. Petitioner submits that 5th respondent had selected her for the same and therefore she left her job as a Sales Girl in a textile shop and took a shop room on rent in December 2014 and has been paying rent for the same. But the 5th respondent, as per Ext.P2 notification dated 13.07.2015 cancelled the notification on the ground that prior permission was not obtained from

Government for starting a retail ration depot in the said ward. Petitioner thereupon approached this Court in W.P.(C).No.36694 of 2015 and by Ext.P3 judgment dated 04.12.2015 this Court directed as follows:

> "This court is of the view that the petitioner has been selected through a competitive process. If there is no other impediment, it is open for the 2nd respondent to ratify the selection process. Therefore there shall be a direction to the 2nd respondent to take an appropriate decision in the matter. If the 2nd respondent ratifies the selection process necessarily the petitioner shall be appointed as ARD pursuant to Ext P1 notification. Needful shall be done by the 2nd respondent within a period of two months from the date of receipt of a copy of the judgment."

2. The 5th respondent thereafter issued Ext.P4 order denying ratification for the starting of the ARD. However it was stated that the said order will not stand in the way of starting a ration depot with prior permission.

3. Aggrieved by Ext.P4 order petitioner approached the second respondent and as per Ext.P5 order dated 04.01.2017, the second respondent

recommended for immediate action to permit the petitioner to commence the ration shop, treating the matter as a special case after condoning the lapses occurred at the end of the concerned officers, in observing the procedural formalities and as the only reason for cancellation was absence of prior permission from Government. On the basis of the said recommendation, Government issued Ext.P6 letter to the Commissioner Civil Supplies directing to take appropriate steps to start ration shop in Ward No.6 of Pallipadu Grama Panchayat. As no positive steps were taken even thereafter, petitioner approached this Court again filing W.P.(C).No.40154 of 2017, which was disposed of by Ext.P7 judgment dated 03.10.2019 recording the submission made by the learned Government that appropriate action would be taken to establish a ration depot in the said Ward and directing to take action in accordance with law at the earliest. It is stated that without taking any action in tune with the direction of this Court

the 5th respondent published Ext.P8 notification on 06.03.2020 in their premises inviting applications from among SC/ST, for commencement of ARD in the same ward. As soon as the petitioner came to know about it, she approached the second respondent again with Ext.P9 representation pursuant to which Ext.P10 recommendation was made by the second respondent calling for a report on the action taken on Ext.P5 within a period of 30 days. This writ petition was filed at that stage pointing out that a further notification for selection of a person for conducting ARD in the very same ward in the Panchayath was illegal when the petitioner who is already selected has been waiting for the same since 2014.

4. The learned Government Pleader submitted that the direction of the Government in Ext.P6 and of this Court in Ext.P7 were to take action in accordance with law and therefore the 5th respondent had issued the notification, for appointment of ARD,

for appointment after a process of selection.

5. It is seen that petitioner who belongs to SC community has been waiting for orders, consequent to her selection based on Ext.P1 notification. This Court had as early as on 04.12.2015 by Ext.P2 judgment directed the 3rd respondent to appoint the petitioner who was selected in a competitive process in case the Government ratified the selection process. The order Ext.P3 was issued stating that prior permission was necessary for commencing a new ARD. Subsequently permission is granted. Therefore there cannot be any further impediment to appoint the petitioner who was already selected, though it was pursuant to Ext.P1 notification. In the light of the recommendation in Ext.P5, the judgments Exts.P3 and P7 and the Government order Ext.P6 it was quite unnecessary for the respondent to issue another notification.

6. Moreover as pointed out by the learned counsel for the petitioner, all the notifications

issued relating to the ARD in ward no.6 of Pallipadu Grama Panchayat are having the very same No. i.e., CS_5 2392/14. The present notification Ext.P8 issued after getting prior permission also bears the very same number; applications are invited from members belonging to SC/ST community. Petitioner fulfills all the conditions. The 2nd respondent has in Ext.P10 proceedings called for the explanation of the 5th respondent for not acting in tune with Ext.P2 recommendation. Apparently the Government had issued Ext.P6 order referring to Ext.P5 order in which the recommendation was to appoint the petitioner. Therefore there cannot be any justification for not acting upon the second respondent's recommendations in Ext.P5 in favour of the petitioner, who has been waiting for the orders of her appointment for commencement of the ration depot for the last about six years, after leaving her job and has been paying rent for the building.

Therefore respondents shall take expeditious

action to issue orders enabling the petitioner to commence the ARD in Ward no.6 of Pallipadu Grama Panchayat, in the light of Ext.P5 recommendation as well as the judgment Ext.P6 at the earliest and without any further delay.

The writ petition is disposed of accordingly.

Sd/-
P.V.ASHA, JUDGE

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APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**THE TRUE COPY OF THE NOTIFICATION VIDE NO.C.S.5.2392/14 DATED 18.11.2014 PUBLISHED BY 5TH RESPONDENT.**
EXHIBIT P2	**THE TRUE COPY OF THE ORDER IN PROCEEDINGS NO.C.S.52392/14 DATED 13.07.2015 OF THE 5TH RESPONDENT.**
EXHIBIT P3	**THE TRUE COPY OF JUDGMENT IN W.P. (C)NO.36694/2015 DATED 04.12.2015.**
EXHIBIT P4	**THE TRUE COPY OF THE ORDER OF THE 5TH RESPONDENT DATED 08.03.2016.**
EXHIBIT P5	**THE TRUE COPY OF THE ORDER DATED 04.01.2017 OF THE KERALA STATE COMMISSION FOR SCHEDULE CASTES AND SCHEDULED TRIBES.**
EXHIBIT P6	**THE TRUE COPY OF THE OFFICIAL COMMUNICATION OF THE 3RD RESPONDENT TO THE 4TH RESPONDENT DATED 03.06.2019.**
EXHIBIT P7	**THE TRUE COPY OF THE JUDGMENT DATED 03.10.2019 IN W.P.(C)NO.40154/2017 OF THIS HON'BLE COURT.**
EXHIBIT P8	**THE TRUE COPY OF THE NOTICE DATED 06.03.2020 PUBLISHED BY THE 5TH RESPONDENT.**
EXHIBIT P9	**THE TRUE COPY OF THE COMPLAINT DATED 01.08.2020 SENT BY THE PETITIONER TO THE 2ND RESPONDENT.**
EXHIBIT P10	**THE TRUE COPY OF THE LETTER DATED 16/9/2020 ISSUED BY THE 2ND RESPONDENT TO THE 5TH RESPONDENT AND A COPY TO THE PETITIONER**

EXHIBIT P11	**THE TRUE COPY OF THE RECEIPT ISSUED BY THE OFFICE OF THE FOOD AND CIVIL SUPPLIES DEPARTMENT MINISTERS OFFICE DATED 25/9/2020**