IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 08TH DAY OF DECEMBER 2020 / 17TH AGRAHAYANA, 1942

WP(C).No.21093 OF 2020(J)

PETITIONER:

P.V.SEBASTIAN
AGED 62 YEARS
S/O VARGHESE, RESIDING AT PARELAN VEEDU,
AYYAMBUZHA, ALUVA TALUK, PIN-683 581.

BY ADVS.
SRI.C.K.PAVITHRAN
SMT.NEENU PAVITHRAN

RESPONDENTS:

1 **THE DISTRICT COLLECTOR,**
CIVIL STATION, KAKKANAD,
ERNAKULAM, KOCHI,PIN-682 030.

2 **THE DISTRICT SUPPLY OFFICER,**
CIVIL STATION, KAKKANAD, ERNAKULAM,
KOCHI, PIN-682 030.

3 **THE TALUK SUPPLY OFFICER,**
ALUVA, PIN-683 101.

R1-R3 BY GOVERNMENT PLEADER SMT.PRINCY XAVIER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23.11.2020, THE COURT ON 08.12.2020 DELIVERED THE FOLLOWING:

P.V.ASHA, J.

W.P(c) No. 21093 of 2020-J

Dated this the 8th day of December, 2020

JUDGMENT

The petitioner who is an authorised retail distributor conducting ARD No.247 of Aluva Taluk is aggrieved by the rejection of his request for shifting the ration shop from ward no.1.

2. Petitioner is the licensee conducting ARD no 247 of Aluva Taluk since 1985. It is stated that when he commenced the ration shop, there were 300 ration cardholders attached to the shop from ward no.1, majority of whom were plantation workers. It is stated that the number of cardholders reduced consequent to the retirement of the plantation workers and as at present there are only 163 ration cardholders and out of them, 150 are residents of ward No.4 of Ayyampuzha Grama Panchayat and the rest of them are residents of ward No.1. It is stated that the ration cardholders of ward No.4 are residing far away from the ration shop. Seeing the difficulty faced by them to collect ration articles, the petitioner had requested for permission to open a subcentre of the ARD 247 in ward No.4. It is stated that as per Ext.P1 report dt.21.05.2018, the 3rd respondent – the Taluk Supply Officer, had addressed the 2nd respondent explaining the

inconvenience caused to the ration cardholders. However, the 2nd respondent - the District Supply Officer rejected the request stating that there is no provision for opening a subcentre for a ration shop. Thereupon the petitioner submitted an application for shifting the ration shop from ward no.1 to 4 suggesting the building number also to which it can be shifted. It is stated that 167 ration cardholders had also submitted a petition before the 2nd respondent pointing out their convenience in the event of a shifting of the ration shop. But the 2nd respondent rejected that application as per Ext.P3 letter stating that the petitioner did not produce the no objection certificate from the Ayyampuzha Grama Panchayat. This Writ Petition is filed challenging the same. According to the petitioner, shifting is not allowed only because of the personal grudge of one of the members of the Panchayat stating that he would not be able to produce a certificate from the Panchayat. According to the petitioner, there is no provision contained in clause 45(1) of the Kerala Rationing Order which provides for a no objection certificate from the Panchayat. He thereafter submitted Ext.P4 representation before the District Collector on 10.08.2020. Whileso he had also requested for permission to stock the ration articles in the building available in ward No.4, for the purpose of distribution of the free kit to the ration cardholders. It is stated that the said suggestion was accepted and then he could distribute the ration articles from the ward no.4. Even though this could be done for a period of 3 months, the 3rd respondent did not permit him from 23.9.2020 onwards to unload the ration articles. The Writ Petition is filed challenging Ext.P3 order and for a direction to

the 2nd respondent to grant permission to the petitioner to shift the ration shop from building no.1/404 to building no.4/112 of Ayyampuzha Grama Panchayat and also to the 1st respondent to dispose of Ext.P4 representation.

3. The 2nd respondent has filed a counter affidavit stating that the petitioner was appointed as ARD for ward No.1 of Ayyampuzha Grama Panchayat for the purpose of carrying out distribution of rationed articles to the cardholders of ward No.1 of the panchayat as per Ext.R2(a) order dated 20.02.1986. It is stated that as per clause 45(4) of Kerala Rationing Order, the ARD is entitled to supply rationed articles in accordance with the order of appointment in the areas which are specified therein, in tune with the terms of the agreements executed by the petitioner on his appointment. It is stated that out of the 165 cardholders presently attached to the petitioner's depot, 145 are residents of ward No.4, which is about 11 km away from the depot. It is stated that the petitioner's request for opening a subcentre was forwarded to the Director of Civil Supplies, who rejected it as per Ext.R2(c) letter dated 21.06.2018 stating that there is no provision for the same. Ext.R2(d) application submitted by the petitioner on 4.12.2018 for shifting of the ration shop from the present ward No.1 to ward No.4, which is 11 km away, was also considered and it was rejected as per Ext.R2(f) letter dt.19.06.2020 of the District Supply Officer. It is stated that normally the shifting of ration shop from one building to another would be required in circumstances like deterioration of the present building, requirement of additional space or on demand of the landlord to vacate the building. In such cases Shifting is allowed to another building in the

notified ward itself. In case of non availability of suitable building in the notified ward, sanction would be accorded to shift the shop to the adjacent ward only after ascertaining the convenience of cardholders through local bodies. It is stated that the decision of the local body is also considered with due importance before final orders are issued, going by the prevailing practice. It is further stated that the building proposed by the petitioner is 11 km away from the present building and moreover as per Ext.R2(e) resolution the Panchayat has expressed its dissent against shifting the depot from ward no.1 to ward no.4. It is also stated that there is another depot within 1 km from the proposed building in ward no.4. Ext.R2(f) order dt.19.6.2020 was issued after considering all these aspects. It is the further contention of the respondent that under the National Food Security Act, 2013, which is implemented in the State from 1.11.2016, the role of local bodies is important for the functioning of targeted public distribution system and it is the responsibility of the local authorities for the proper implementation of the Act in the respective areas. It is also stated that as at present portability facility is available to cardholders to procure rationed articles from any ration shop. It is stated that as per Ext.R2(g) letter dated 16.10.2019, the Government had rejected the request of the petitioner for opening a subcentre. At that time also, the facility for portability was mentioned by the Government. It is stated that the appeal submitted by the petitioner against Ext.R2(f) order is pending consideration.

4. Heard Sri C.K.Pavithran, the learned counsel for the petitioner, and Smt.Princy Xavier, the learned Government Pleader.

5. From Ext.R2(a) order appointing the petitioner as ARD, under clause 45 (1) of the Kerala Rationing Order, 1966, it is seen that the authorisation granted to the petitioner was to carry on the business in ward No.1 of Ayyampuzha Grama Panchayat and that he is bound by the terms of the agreement executed by him at that time of his appointment. Admittedly, there are cardholders belonging to ward No.1 and 4 and majority of them are from ward No.4, which is at a distance of 11 km away from the present shop in ward No.1. A ration shop is supposed to function having regard to the convenience of the ration cardholders, to collect the articles. The petitioner cannot insist that the ration depot should be in a particular area or it would be shifted to an area which is 11 km away. It is seen that the number of cardholders from ward no.1 are meagre and that the petitioner had been conducting the ration shop near the area of plantation and most of the beneficiaries were from the Plantation. It is also seen that the reduction in number of cardholders is likely to affect the livelihood of the petitioner. However Ext.R2(a) itself shows that the order of appointment of the petitioner as ARD is in ward no.1. The petitioner cannot therefore insist that the ARD should be shifted to another ward. Therefore, even assuming that there is no requirement of no objection certificate from the Panchayat, provided in the Rationing Order, it is necessary to look into the order of appointment as well as the convenience of the ration cardholders. The respondents have stated that there is a resolution passed by the Grama Sabha against the shifting. The 2nd respondent has rejected the request of the petitioner considering all these aspects. Admittedly the shifting is sought by

the petitioner to a place which is 11 km away from the present depot and, that too, in another ward. The petitioner has not pointed out any provision for a shifting from the ward in which he was appointed to another ward, that too, at a distance of 11 kms. Moreover, it cannot also be said that local body does not have any role in the matter, after the enforcement of Food Security Act under which smooth maintenance of public distribution system is on the local bodies. Though the learned Counsel for the petitioner submitted that the petitioner was the only person available for supplying the ration articles in the remote area when there were no other facilities and the present condition would seriously affect him, it cannot be said that the order impugned suffers from any illegality.

In the above circumstances, the Writ Petition is dismissed.

Sd/- ***(P.V.ASHA, JUDGE)***

rtr/

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE REPORT DATED 21.5.2018.**
EXHIBIT P2	**TRUE COPY OF THE LETTER NO C.S.2-2234/18 DATED 16.7.2018.**
EXHIBIT P3	**TRUE COPY OF THE LETTER NO.DSOEKM/60/2020-S2 DATED 19.6.2020.**
EXHIBIT P4	**TRUE COPY OF THE PETITION DATED 10.8.2020.**

RESPONDENT'S EXHIBITS:

EXHIBIT R2(a)	**TRUE COPY OF THE APPOINTMENT ORDER NO A2-1328/81 DATED 20.2.86.**
EXHIBIT R2(b)	**TRUE COPY OF THE REQUEST DATED 26.3.2018.**
EXHIBIT R2(c)	**TRUE COPY OF THE LR NO CSA4/11679/18 DATED 21.6.2018 FROM THE DIRECTOR OF CIVIL SUPPLIES.**
EXHIBIT R2(d)	**TRUE COPY OF REQUEST MADE BY THE PETITIONER DATED 4.12.2018.**
EXHIBIT R2(e)	**TRUE COPY OF GRAMA SABHA RESOLUTION DATED 26.5.2020 BY SHIFTING THE DEPOT FROM WARD NO.1 TO WARD NO.IV.**
EXHIBIT R2(f)	**TRUE COPY OF ORDER NO DSOEKM/60/2020-CS2 DATED 19.6.2020.**
EXHIBIT R2(g)	**TRUE COPY OF THE LETTER NO B2-10/19 DATED 16.10.2019 OF SECRETARY F&CSD.**