



WEB COPY



W.P.No.5281 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.5281 of 2007 and
MP.No.2 & 3 of 2007

A.M.Maheswari

... Petitioner

Vs.

- 1.The State of Tamilnadu
Rep. by its Secretary Dept. of Co.Operation
Food and Consumer Protection
Fort St. George, Chennai 9
- 2.The District Revenue Officer
O/o. the District Revenue Officer, Coimbatore
- 3.District Distribution Officer /
Licence Distribution Officer
O/o. District Distribution Officer /
Licence Distribution Officer, Coimbatore
- 4.Assistant Distribution Officer
Circle-I, Coimbatore
- 5.K.C.Muthu

...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of declaration to declare the clause 5 (1) (ii) of Tamilnadu Kerosene (Regulation of Trade) Order 1973 (impugned amendment dated 20.01.2003) as null and void

For Petitioner : Mr.P.Selvamani for

: Mr.S.Saravanan

For Respondents : Mr.Alagu Gowtham
Government Advocate [R1 to R4]
No Appearance (R5)



W.P.No.5281 of 2007

ORDER

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The petitioner claims to be engaged in the business of distributing kerosene in retail for several years. She claims to have been issued a retail registration certificate under the Tamil Nadu Kerosene (Regulation of Trade) Order 1973 in the year 1990.

2. The certificate, according to her, has been renewed periodically till 31.12.2006. She challenges proceedings dated 18.08.2005 cancelling the licence issued to her, based on the impugned amendment in the Tamil Nadu Kerosene (Regulation of Trade) Order 1973 vide G.O.Ms.No.46 dated 20.01.2003.

3. By virtue of the impugned amendment, a prohibition is placed upon the grant/renewal of license for Public Distribution System (PDS) service for kerosene vending, where the spouse of the applicant is already operating as a retailer in the PDS kerosene system.

4. Admittedly, the spouse of the petitioner is operating in the PDS system and hence, this embargo comes in the way of the petitioner engaging in the same activity.

5. A perusal of the impugned notification does not lead me to intervene, as the same has been issued in pursuance of State policy. The



W.P.No.5281 of 2007

petitioner is also unable to point out to any specific flaw/fault in the impugned notification.

6. The spirit of the notification has been explained at para 9 of the counter filed by the respondents wherein they state that kerosene handcartmen/private retailers are permitted to operate on account of their poor economic conditions with the mode of distribution being modernized by the establishment of kerosene bunks and with the reduction in the allotment of kerosene. The quantum available for distribution has also come down substantially.

7. Thus, the State has taken a decision to consider each case on merits and while considering the need and eligibility for each case, the parameters that are being applied would be income and employment of the applicant and other members of the family or whether any other members of the family are holding identical licences.

8. I may, at this juncture, refer to an interim order granted in WP.No.47612 of 2006 that has been relied on by the petitioner. Though initially an interim stay had been granted, the writ petition had been dismissed for default as early as early on 26.07.2010.



W.P.No.5281 of 2007

9. In view of the discussion as above, this writ petition is dismissed.

No costs. Connected miscellaneous petitions are closed.

09.12.2022

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Index : Yes/No

Speaking Order/Non speaking Order

To

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W.P.No.5281 of 2007

DR.ANITA SUMANTH,J.

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