



W.A.No.2721 of 2022 and W.P.No.14015 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
09.07.2024	02.09.2024

CORAM:

THE HON'BLE MR.D.KRISHNAKUMAR
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.2721 of 2022 and W.P.No.14015 of 2022
and C.M.P.Nos.22080 and 22085 of 2022

W.A.No.2721 of 2022

S.Annamalai

... Appellant/Writ Petitioner

-VS-

1. Villupuram District Co-operative,
Milk Producers Union Ltd. (Aavin),
Rep. by its General Manager,
Azhudhareddy, Kandamandi Post,
Villupuram-605 401.

2. The Tamil Nadu Co-operative Milk Producer Federation Ltd.,
Rep. by its Deputy General Manager (Bulk Vending Unit),
3-A, P.M.R.Salai, Nandanam,
Chennai-600 035.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the impugned order dated 24.11.2022 made in W.P.No.31404 of 2022 and W.M.P.Nos.30835 and 30836 of 2022.

For Appellant : Mr.R.Prabhakaran

For Respondents : Mr.I.John Arokiadas

W.P.No.14015 of 2022



W.A.No.2721 of 2022 and W.P.No.14015 of 2022

S.Annamalai

... Petitioner

-VS-

1. Villupuram District Co-operative
Milk Producers Union Ltd. (Aavin),
Rep. by its General Manager,
Azhudhareddy, Kandamandi Post,
Villupuram-605 401.

2. The Tamil Nadu Co-operative Milk Producer Federation Ltd.,
Rep. by its Deputy General Manager (Bulk Vending Unit),
3-A, P.M.R.Salai, Nandanam,
Chennai-600 035.

... Respondents/Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent to supply the milk and milk product of Aavin to enable the petitioner to carry on his business.

For Appellant : Mr.R.Prabhakaran
For Respondents : Mr.I.John Arokiadas

COMMON JUDGMENT

(By the Hon'ble Acting Chief Justice)

In W.A.No.2721 of 2022, the Writ Petitioner/Appellant herein had challenged the order dated 24.11.2022 of the learned Single Judge, by which the Writ Petition was dismissed on the ground that the Writ Petitioner did not have a valid license beyond 06.01.2020.

2. The Writ Petition in W.P.No.14015 of 2022 has been filed for a direction



to the 1st respondent to supply the milk and milk product of Aavin to enable the petitioner to carry on his business.

3. The issue involved in these two cases is one and the same and therefore, they are taken up together for final disposal.

3.1. The case of the Appellant was that he is a physically challenged person and he was allotted a Aavin Bunk near the new bus stand, Villupuram in the year 2004 vide License No.7198 renewable annually. Since he was sick for some time, he was not in a position to open the shop to run the Aavin Parlor. While so, an inspection was conducted on 01.04.2022 by the Officials and at that time, he was in Chennai and they found few products, which were not supposed to be sold in the Aavin Bunk. When he contacted his employee, he had confessed that he sold those products without his knowledge. After inspection, the respondent Officials stopped sending products for sale, which had necessitated him to send a representation dated 03.05.2022 followed by another one on 20.05.2022 and there was no reply, as a result of which, his livelihood was at stake;

3.2. The further case of the appellant was that in order to wreak vengeance for the protest made for the welfare of disabled community, inspection was conducted in



his shop and on 21.07.2022, the 1st respondent had passed the order, cancelling his Aavin Shop license. When he had filed a W.P.No.21359 of 2022, the order dated 21.07.2022 was quashed with a direction to pass a fresh order after considering his reply dated 03.05.2022 given earlier. Even after the orders of this Court, there was no supply of Aavin products made by the respondents and he was called for an enquiry on 14.09.2022.

3.3. It was stated by the appellant that though he had submitted a grievance petition against cancellation of license, without heeding his request, the 1st respondent again passed an order on 10.11.2022, cancelling his license on the ground that the appellant had not submitted any application for renewal of license, which was never asked for on earlier occasions. To add fuel, a demand of Rs.2,40,000/- was made for causing loss to the Aavin for not running the bunk, as it was the respondents, who had not supplied products for sale.

4. The appellant had also filed one more W.P.No.14015 of 2022 tagged along with this appeal seeking a direction for supply of milk and milk products as stated supra.

5. Learned counsel for the appellant submitted that the respondents, without conducting proper enquiry, stopped the supply of all Aavin products and in fact, the



respondents caused loss to the appellant and suppressing the same, by way of impugned order, the liability was fixed on the appellant with a demand of huge sum to compensate the loss, which is arbitrary exercise of power. The appellant was very prompt in payment of rent and renewal of agreement for the last 18 years and he, being a disabled person, has been struggling to eke out his livelihood owing to cancellation of the license.

6. Per contra, learned counsel for the respondents contended that the Writ Petition filed by the appellant itself was not maintainable in the light of the judgment of the Larger Bench in the case of K.Marappan vs. The Deputy Registrar of Co-operative Societies and another, reported in 2006 (4) CTC 689 that has been rightly considered by the learned Single Judge and the Writ Petition was dismissed accordingly. He further contended that the burden of periodical renewal of license lies to the appellant only and having missed the bus, he cannot make hue and cry and make accusation against the respondents for cancellation of the license on flimsy grounds.

7. Heard the learned counsel on either side and perused the material documents available on record.

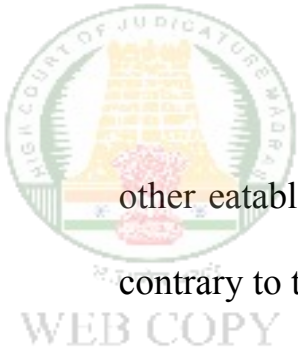
8. A circumspection of the fact unravels the fact that the appellant was allotted an Aavin Parlor in the year 2004 through Thennai Self Help Group and a license



No.7198 was assigned to him. When a surprise inspection was conducted in his bunk by the respondents, it was found that sale of products, which were not permitted to be sold in the Aavin shop, had taken place. Though the appellant blamed his employee for the sale of unapproved products, ultimately, the liability would be foisted on the appellant alone, as the license was granted in his name.

9. A perusal of the order dated 10.11.2022 impugned before the Writ Court amply prove the fact that since there was no request or application made by the appellant for renewal of license on or after 06.01.2021, no necessity had arisen for the respondents to consider such renewal of license. It was stated therein that on account of improper management of the shop, Aavin incurred a loss to the tune of Rs.80,000/- per month for three months, which would be questioned by the Audit and therefore, having left with no other option, license of the appellant was cancelled with a demand of Rs.2,40,000/-, which, in our view cannot be faulted with.

10. The appellant pleaded before this Court that due to cancellation of the license, he had been put to much hardship. We are of the view that the appellant must be vigilant to renew the license as and when it expires and he cannot expect the respondents to send a reminder to him to renew the license. That apart, there was a charge against the appellant to the effect that other than Aavin products, he was selling Tea, Coffee and



other eatable items, which were not permitted by the respondents and the said act was contrary to the lease agreement.

11. With regard to the maintainability of the Writ Petition, the respondents drew the attention of this Court to Clause (vii) of Paragraph 21 of the Marappan's case, to state that Writ Petition under Article 226 of the Constitution of India cannot be entertained, when the Act provides for alternative remedy and no Writ will lie against the respondents, being a Society.

12. Finding much force in the contention of the learned counsel for the respondents and considering the fact that the license was not renewed by the appellant beyond 06.01.2021 as rightly held by the learned Single Judge, in the considered opinion of this Court, the Writ Appeal deserves to be dismissed.

13. Accordingly, the ***Writ Appeal is dismissed*** as devoid of merits. In view of dismissal of the Writ Appeal, the relief sought for by the appellant in the yet another Writ Petition filed by the very same appellant has become infructuous. Hence, the ***Writ Petition is dismissed as infructuous***. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,ACJ.]

[K.B.,J.]



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02.09.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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HON'BLE ACTING CHIEF JUSTICE,
AND
K.KUMARESH BABU,J.,
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W.A.No.2721 of 2022 and W.P.No.14015 of 2022

PRE-DELIVERY JUDGMENT IN
W.A.No.2721 of 2022 and W.P.No.14015 of 2022

02.09.2024