

(2021) 05 J&K CK 0047

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 965 Of 2021, CM No. 3124, 3126 Of 2021

Abdul Rashid Khan And Ors

APPELLANT

Vs

Union Territory Of Jk And Ors

RESPONDENT

Date of Decision : 24-05-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 05 J&K CK 0047

Hon'ble Judges : Ali Mohammad Magrey, J

Bench : Single Bench

Advocate : Bhat Fayaz Ahmad, Feroz Ahmad Sheikh

Final Decision : Dismissed

Judgement

1. By medium of the instant Petition filed under Article 226 of the Constitution of India, the Petitioners have knocked at the portals of this Court in

granting them the following relief(s):

â??(a) Writ of Certiorari seeking quashment of order No. DFCS&CAK/ADM/B-X-52/Bla dated 20.04.2021 to the extent of directing the

respondent No.4 to shift the Fair Price shop located in the house of village Numberdar to some other accommodation;

(b) Writ of Mandamus commanding upon the respondents to explain the reasons for incorporating the said condition in the order impugned

while reinstating the license of the licensee;

(c) Writ of Mandamus commanding upon the respondents to ensure that the inhabitants of the area are not subjected to any sort of

inconvenience, as the Fair Price Shop is centrally located which is convenient to the entire village, further direct the respondents to shift

their Fair Price Shop at the behest of the license holder or any political intervention; and

(d) Any other writ, order or direction which this Honâ??ble court may deem fit and proper in the given circumstances of this case may also

be issued in favour of the petitioners and against the respondents; the same would be in consonance with law and justice.â??

2. The Petitioners claim to be the residents of Babagund, Pattan, District Baramulla and having been authorized by the inhabitants of the said area to

file the Petition on hand. It is stated that a complaint came to be filed against the Fair Price Shop License holder, namely, Mr Abdul Hamid Mir, by the

inhabitants of the area on the ground of misappropriation of food grains meant for the rationees of Babagund, Masooma, Pattan, resulting in

suspension of the license of the Fair Price Shop holder with immediate effect vide Order No. 43-DFCS&CAK of 2021 dated 1st of March, 2021. It is

pleaded that, thereafter, an enquiry was got conducted into the matter which culminated with the issuance of the Order impugned dated 20th of April,

2021, in terms whereof the Fair Price Shop dealership license of the aforesaid person stands restored with further direction to the Assistant Director,

Baramulla to shift the said Fair Price Shop located in the house of village Numberdar to some other accommodation which is mutually and

unanimously agreed by the rationees of the area. It is this Order that has been assailed by the Petitioners through the medium of the instant Petition.

3. Mr Bhat Fayaz Ahmad, the learned counsel appearing for the Petitioners, submitted that the impugned Order issued by the Respondents has the

effect of imposing punishment upon the inhabitants of the area concerned inasmuch as the ration depo in question was centrally located as per the

convenience of all the rationees of the area, but the Respondents, after being annoyed with the complaints so filed by the inhabitants of the area and

with complete non-application of mind, have proposed shifting of the same. It is pleaded that the aim and object of the inhabitants in approaching the

Respondents by way of the aforesaid complaints/ representations was only to streamline the entire process of distribution of ration in accordance with

the relevant Government policy in vogue and not the suspension or any other penal action against the Fair Price Shop.

4. Objections stand filed on behalf of the Respondents, resisting and controverting the averments made by the Petitioners in their Petition. It is

submitted that no right of the Petitioners stands violated with the issuance of the Order impugned and that the same has been issued after conducting

proper enquiry into the matter in tune with the mandate of the scheme formulated by the Government and keeping in view the public interest involved.

5. Heard learned counsel for the parties, perused the pleadings on record and considered the matter.

6. When this matter was taken up for consideration on 19th of May, 2021, the Court, after hearing the learned counsel for the parties, passed an ad-

interim Order, thereby directing that the Fair Price Shop in question shall not be shifted till the next date of hearing, viz. today.

7. After hearing the learned counsel for the parties, coupled with a perusal of the pleadings on record, the Court is of the considered view that the

Order impugned has been issued by the Respondents on the basis of the enquiry conducted into the matter pursuant to the complaints filed by the

inhabitants of the area/ Petitioners herein regarding distribution of ration by the Fair Price Shop in question. The Order does not envisage the shifting

of the Fair Price Shop from the area nor does it aim to deprive any rationee of the area from receiving ration from the said Shop. Besides, it is clearly

provided in the Order impugned that the Assistant Director, Baramulla shall shift the Fair Price Shop to some other accommodation with mutual and

unanimous agreement of the rationees of the area which, in ordinary sense, should have taken care of the grievance so projected by the Petitioners in

this Petition. In such circumstances, no fault can be attributed to the action of the Respondents as taken in terms of the impugned Order pursuant to

the complaints filed by the inhabitants of the area.

8. Given the above position, I do not find any merit in the instant petition. It entails dismissal and is hereby dismissed along with all pending CMs

therewith. Interim directions, if any, subsisting as on date shall stand vacated.

9. Parties are, in the attending facts and circumstances of the case, left free to bear their own costs.