
(2026) 03 KL CK 0783
In the High Court Of Kerala
Case No : Writ Petition (C) No.19795 Of 2022

Asha A.V

APPELLANT

Vs

State Of Kerala Represented By The Chief Secretary

RESPONDENT

Date of Decision : 24-03-2026

Acts Referred:

Citation : (2026) 03 KL CK 0783

Hon'ble Judges : Viju Abraham, J

Bench : Single Bench

Advocate : R.Sudhish, M.Manju, Mithun P., Merin Thomas, S.Renjith

Final Decision : Disposed Of

Judgement

Viju Abraham, J

1. The above writ petition is filed challenging Exts.P5 and P10 notifications and for a declaration that the petitioner is eligible and entitled to be appointed as a licensee in ARD No.1733127 of Palluruthy Village in Kochi Corporation.
2. The petitioner submits that she is employed as a saleswoman in the Fair Price Shops(FPS), formerly known as Authorised Retail Distributor(ARD), in ARD No.1733127 of Ward No.18 of Palluruthy Village of Kochi Corporation from 2018 onwards. Later, the said ARD was attached to ARD No. 641, and the petitioner is still continuing as the saleswoman in ARD No. 1733127.
3. The Government of Kerala implemented the Kerala Targeted Public Distribution System (Control) Order 2021 [herein after referred to as 'KTPDS order, 2021'], which came into force on 18.02.2021. Relying on Clause 37(5) of the KTPDS Order, 2021 it is submitted by the petitioner that if the fair price shop owner is incapable of running the ration business and his/her legal heirs are not willing to continue the ration business, or where there are no legal heirs, the Licensing Authority after verification of the medical certificate from a registered medical practitioner in this regard, consent letter and notary attested

affidavit from the fair price shop owner and from the legal heirs, certificate issued by the Taluk Supply Officer with regard to the experience of the salesman in the particular fair price shop and after conducting necessary enquiry, may grant license provisionally to the existing salesman having 10 years of experience in the particular fair price shop. The said 10 years' experience has been modified by the Government Order - G.O.(Rt.)No.439/2025/F&CS dated 22.12.2025, by reducing the experience to 6 years and therefore, the petitioner is perfectly eligible for the benefit under Clause 37(5) of the KTPDS Order, 2021. Based on the same, the petitioner would contend that since the licensee was not willing to run the shop as he had obtained a Government employment, necessarily, going by Clause 37(5), the petitioner, who is the saleswoman in the said ARD, ought to have been appointed as a licensee. Instead, Exts.P5 and P10 notifications were issued for a fresh selection for ARD No.1733127 of Palluruthy Village, and the same has been earmarked for PWD categories. The petitioner would contend that the entitlement of the petitioner as a saleswoman for getting a license is to be examined first, and only thereafter, that the notification for appointment as licensee for the above said ARD could be issued by the Government.

4. The learned Special Government Pleader would submit that it is true that the petitioner has a preference, but going by Clause 37(7) of the KTPDS Order, 2021, the provisions of sub clause (1) to (6) shall apply only to Authorized Retail Distributors existing under the Kerala Rationing Order, 1966, on the date of coming into force of the KTPDS Order, 2021 and shall not be available to fresh licences issued after the coming into force of the Order. On the basis of the same, it is the contention of the learned Special Government Pleader that as on the date of coming into force of the KTPDS Order, 2021, the licence in question was not existing, since the owner has already surrendered the licence and therefore, the petitioner cannot claim shelter under Clause 37(5) of the KTPDS Order, 2021 for getting a preference. The learned Special Government Pleader, upon instructions, submitted that though Exts.P5 and P10 notifications were issued inviting applications from candidates belonging to PWD categories, no applications were received from any eligible candidates. It is further submitted that the Government proposes to issue a fresh notification in this regard.

5. I have heard the rival contentions on both sides.

6. It is an admitted case that the petitioner was employed as a saleswoman in ARD No.1733127 of Ward No.18 of Palluruthy Village of Kochi Corporation from 2018 onwards and even after the attachment of the said ARD to ARD No.641, the petitioner continued and is still continuing. Clause 37(5) of the KTPDS Order, 2021 deals with licence by nomination or compassionate ground or salesman. The provisions relevant for consideration of this case are Clause 37(5) and (7), which reads as follows:

"37. Licence by Nomination or Compassionate Ground or Salesman:

(5) If the fair price shop owner is incapable of running the ration business and his/her legal heirs are not willing to continue the ration business, or where there are no legal heirs, the Licensing Authority after verification of the medical certificate from a registered medical practitioner in this regard, consent letter and notary attested affidavit from the fair price shop owner and from the legal heirs, certificate issued by the Taluk Supply Officer with regard to the experience of the salesman in the particular fair price shop and after conducting necessary enquiry, may grant license provisionally to the existing salesman having 10 years of experience in the particular fair price shop. Such licence shall be made permanent only on the production of proof of financial stability in the form of Treasury Fixed Deposit of Rs 1,00,000 (Rupees One Lakh only) duly pledged in the name of Licencing Authority within three months and after conducting necessary enquiry, as the Licensing Authority may deem necessary, as to the fulfillment of eligibility conditions specified in paras 27 and 28. If the salesman fails to furnish the Treasury Fixed Deposit within such period, the provisional licence, shall be cancelled by the Licensing Authority.

xxx xxx xxx

(7) The provisions of sub-paras (1) to (6) shall be applicable only to Authorized Retail Distributors existing under the Kerala Rationing Order, 1966, on the date of coming into force of this Order and shall not be available to fresh licences issued after the coming into force of this Order.”

There is not much dispute regarding the entitlement of the petitioner for appointment as licensee under Clause 37(5) but the Special Government Pleader submits that going by Clause 37(7), the said benefit could be extended only to an ARD existing under the Kerala Rationing Order as on the date of coming into force of the KTPDS Order, 2021 and since licence has been surrendered by the original licensee, before coming into force of the KTPDS Order, 2021, the petitioner cannot claim the benefit of Clause 37(5). It is to be seen that Clause 37(5) is a benefit extended to salesman who has put in long years in an ARD. It is not in dispute that after the original licensee expressed his inability to run the shop as he had secured government employment, the functioning of the ARD continued by attaching the same to ARD No.641 and the petitioner also continued employment as a saleswoman in ARD No.1733127 and even continuing so. Clause 37(7) only provides that the benefit of Clause 37(5) will be applicable to ARDs existing under the Kerala Rationing Order 1996 on the date of coming into force of the KTPDS Order, 2021 and shall not be available to fresh licences issued after the coming into force of this order. This would only mean that the said benefit granted to the salesman will be available only to employees in an ARD licensed as per the Kerala Rationing Order 1996 and not for employees in fair price shops licensed as per the provisions of KTPDS Order 2021. Therefore, only for the reason that the license granted to the erstwhile licensee was cancelled due to his inability to run the shop cannot be a reason to deny the benefit of Clause 37(5)

to the petitioner, especially when the said shop continued to function being attached to ARD No.641 and the petitioner continued as a saleswoman in ARD No.1733127 and is continuing so. Clause 37(5) is a beneficial clause in favour of salesmen employed in the erstwhile shops licenced as per the provisions of the Kerala Rationing Order 1996 on the introduction of KTPDS Order 2021. The said Clauses, i.e., Clause 37(5) and (7), introduced as per KTPDS Order 2021, being a social welfare legislation, intended to protect the interest of the salesman, a weaker section of the society, it is imperative for the Court to give a purposive interpretation to the above provisions. From the discussion as above, it is without any doubt that the petitioner, who is a saleswoman of ARD No.1733127, is entitled to the benefit of Clause 37(5) of KTPDS Order 2021.

7. Taking into consideration the fact that though Exts.P5 and P10 notifications were issued inviting applications from candidates belonging to PWD categories, no applications were received from any eligible candidates, and the Government is proposing to issue a fresh notification in this regard and that those notifications were issued without considering the preferential claim of the petitioner for appointment as a licensee as provided in Clause 37(5) of KTPDS Order 2021, Exts.P5 and P10 notifications are liable to be interfered with and accordingly, Exts.P5 and P10 notifications are quashed. The claim of the petitioner for appointment as licensee of the fair price shop as provided under Clause 37(5) of the KTPDS Order 2021 has to be considered first and if the petitioner satisfies the parameters laid down for appointment as a licensee under Clause 37(5) of the KTPDS Order 2021, as modified by the Government Order, G.O.(Rt.)No.439/2025/F&CS dated 22.12.2025, she should be appointed as licensee of ARD No.1733127 of Palluruthy Village of Kochi Corporation. A decision in this regard shall be taken by respondents 4 and 5 within an outer limit of two months from the date of receipt of a copy of this judgment.