
(2005) 03 KAR CK 0059
In the Karnataka High Court
Case No : W.P.No. 33085 of 2000

B.C. Sampathkumar

APPELLANT

Vs

The Deputy Commissioner and Others

RESPONDENT

Date of Decision : 10-03-2005

Acts Referred:

Karnataka Essential Commodities (Public Distribution System) Control Order, 1992 —
Section 11

Citation : AIR 2005 Kar 324 : (2005) ILR (Kar) 1673 : (2005) 2 KCCR 1043

Hon'ble Judges : K.L. Manjunath, J

Bench : Single Bench

Advocate : K.R. Ramesh, for the Appellant; B.N. Prasad, HCGP, for the Respondent

Final Decision : Allowed

Judgement

K.L. Manjunath, J.—The Deputy Commissioner, Tumkur has granted authorization in favour of the petitioner to run a fair price depot at Bellavi, Tumkur Taluk. Based on the representation of certain villages the Deputy Commissioner, Tumkur as per Annexure-C dated 10.9.1999 directed the Tahsildar, Tumkur Taluk to make alternate arrangements as per the request made by the villages by transferring 211 cards from the petitioner's shop to V.S.S.S.N. Bellavi. Based on the direction of the Deputy Commissioner, the Tahsildar, Tumkur as per his order dated 16.9.2000 has assigned all the cards of the petitioner to the V.S.S.S.N. Bellavi. Challenging the said order of the Deputy Commissioner and the Tahsildar the present petition is filed.

2. I have heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents.

3. Short question that arises for consideration in this Writ Petition is as to whether the Deputy Commissioner or Tahsildar have power to assign all the cards of the petitioner to some other fair price depot when the authorization granted in favour of the petitioner is in tact. Admittedly there are no allegation of

irregularity or illegality against the petitioner and the authorization granted in favour of the petitioner has not been cancelled by the Deputy Commissioner as per the provision of Karnataka Essential Commodities (Public Distribution system) Control Order, 1992 (for short "the Order"). When the authorization is in force the Deputy Commissioner will not get any right to transfer all the cards from the shop of the petitioner to any other fair price depot. As per Rule 11 of the order the Deputy Commissioner has power to transfer and assign cards from one shop to another shop. While transferring the cards he has to maintain a minimum 300 cards in favour of the petitioner. Therefore the Deputy Commissioner in the present case without following Rule 11 of the order had transferred 211 cards from the shop of the petitioner, on the request of the villages, and further transferred the remaining 89 cards also on the ground that the petitioner has not lifted the food-grains. As long as the authorization granted in favour of the petitioner is in-force as per the provision of Rule 11 of the order the Deputy Commissioner based on the request of the villages could not have preferred the cards from the petitioner shop to any other fair price depot. If the Deputy Commissioner was of the opinion that running a fair price shop at Bellavi by the petitioner was causing inconvenience to the villages at best the Deputy Commissioner could have asked the petitioner to shift the fair price shop to a place where it is convenient to the villagers. Instead of directing the petitioner to shift the shop to a proper place as per the choice of the villages the Deputy Commissioner has wrongly assigned and transferred the cards from the shop of the petitioner to some other depot thereby making the petitioner to close his shop.

4. In the circumstances, Writ Petition is allowed. The order passed by the Deputy Commissioner, Tumkur as per Annexure-C dated 10.9.1999 and the order passed by the Tahsildar, Tumkur as per Annexure- E dated 16.9.2000 are hereby quashed.