
(1968) 07 KL CK 0002
In the High Court Of Kerala
Case No : O. P. No. 5079 of 1967

G. Raghavan

APPELLANT

Vs

The Taluk Supply Officer

RESPONDENT

Date of Decision : 03-07-1968

Acts Referred:

Citation : (1968) KLJ 942

Hon'ble Judges : V. P. Gopalan Nambiyar, J

Bench : Single Bench

Advocate : K.C. John, for the Appellant;

Judgement

V. P. Gopalan Nambiyar J.

1. Two points of a jurisdictional nature have been raised in this writ petition, which is directed against Ex. P-3 order cancelling the petitioner's license or appointment as an authorised retail distributor of rationed articles, in Thrikkaruva. The Order itself was passed by the Taluk Supply Officer under Clause 45(8) of the Kerala Rationing Order 1966. The first of the jurisdictional objections is that the petitioner's license was granted under the Food Grains Dealers' Licensing Order 1964 (as evidenced by Ex. P-4 filed along with the petitioner's additional affidavit) and therefore the same could be cancelled only under the provisions of that Order, and only by the District Collector or by the District Supply Officer. This has been set by counsel appearing for the respondents by stating that the impugned order does not at all purport to deal with the petitioner's license under the Food Grains Dealers' Licensing Order and that it may be recorded that the said license has not been cancelled by Ex. P-3. In view of this statement made by the counsel for the respondent any apprehension or grievance of the petitioner based on any purported or actual cancellation of his license under the Food Grains Dealers' Licensing Order 1964, is groundless, and calls for no consideration or redress.

2. The second jurisdictional objection is that the ground for the impugned order,

viz. certain irregularities committed by the petitioner in the matter of gram entrusted to him by the Government for distribution to the card-holders, cannot be dealt with under the Rationing Order. Gram, it was contended, is not a "rationed article within the meaning of the Kerala Rationing Order 1966 and any irregularity in regard to its distribution, or non-compliance with any directions for its distribution, can hardly entail the cancellations of the appointment under the Rationing Order. There is no controversy that gram is not a rationed article under the provisions of the Kerala Rationing Order 1966. For the respondent, reliance was placed on clauses 30, 45 (6) and 50 of the Kerala Rationing Order 1966 to justify the cancellation. Clause 30 enjoins every retail distributor "for the due performance of his duties under this Order" to comply with such directions as may be issued by the Departmental Authorities specified. Clause 45 requires every authorized retail distributor to execute an agreement in the form prescribed "for the due performance of the conditions subject to which he has been so appointed" Clause 50 defines the duties of an authorized retail distributor. It is enough to notice that it requires him inter alia to obey all general or special directions given from time to time by the specified authorities concerning the manner in which and the conditions subject to which, "any rationed article" may be supplied or obtained or kept for household consumption or for establishment consumption or in connection therewith. These were the only provisions to which my attention was drawn to sustain the impugned order. Reading these provisions, it is impossible for me to hold that the duties under clause 50 of the Rationing Order related to anything other than in relation to "a rationed article". The same limitation is also implied in the compliance with the directions enjoined by clause 30. Compliance is required only for the due performance of his duties "under the Order", and the duties are only in respect of the distribution of "Rationed articles" and no more. Nor have I been told that the conditions subject to which the petitioner was appointed involve compliance with the directions issued regarding the distribution of anything other than rationed articles. The result is that on the materials placed before me, I must hold that the action taken against the petitioner by cancellation of his appointment as an authorized retail distributor under the Kerala Rationing Order 1966, for non-compliance with the distribution of a non-rationed article is unjustified and improper. I allow this O.P. and quash Ex: P-3 Order. There will be no order as to costs.

Issue carbon copies of this order to the counsel for the petitioner and for the respondent.