

(2008) 04 KAR CK 0030
In the Karnataka High Court
Case No : Writ Petition No. 8122 of 2007

Govindaraju

APPELLANT

Vs

The Executive Officer and Others

RESPONDENT

Date of Decision : 08-04-2008

Acts Referred:

Citation : AIR 2008 Kar 2567 : (2008) ILR (Kar) 3231 : (2008) 6 KarLJ 242 : (2008) 3 KCCR 1849

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

Bench : Single Bench

Advocate : K.B. Lingaraj, for the Appellant; H.T. Narendra Prasad, HCGP for R2-R3, for the Respondent

Final Decision : Allowed

Judgement

K.L. Manjunath, J.—Heard the counsel for the parties.

2. The petitioner belongs to schedule caste and he is having an authorisation to run the fair price depot at Vokkodi village. A show cause notice was issued by the Deputy Commissioner why an. alternative arrangement should not be made in regard to 261 cardholders out of 281 cards assigned to the petitioner. The above show cause notice was issued on the ground that out of 281 cards assigned to the petitioner's shop, 261 card-holders were not willing to purchase kerosene and food grains from the petitioner. Therefore, the petitioner being aggrieved by the order passed by the Deputy Commissioner, had filed an appeal before the Director of Food and Civil Supplies. The Director of Food and Civil Supplies by his order dt.17.7.2006 allowed the appeal and the order passed by the Executive Officer of the Taluk Panchayat was set aside. Thereafter, the petitioner requested the authorities to permit him to lift the food grains to supply the same to the cardholders. But the request made by the petitioner has ended in vain. Therefore, the present petition is filed requesting this Court to issue a writ of mandamus directing the respondents to comply with the order passed by the Director of Food and Civil Supplies dt. 17.7.2006 in appeal No. 5/2006-2007.

3. The Deputy Commissioner has filed the counter stating that since the villagers were not buying the food grains from the fair price shop of the petitioner and in order to maintain law and order situation, the present order has been passed and he further submits that as per Annexure-R 1 dt. 18.11.2006 the Deputy Commissioner has directed the Tahsildar to withdraw the cards from the petitioner and assign the same to the V.S.N.N. Bugudanahalli. Therefore, the learned Government Advocate submits in view of the subsequent order dt.28.11.2006 passed by the Deputy Commissioner, Tumkur, the present petition does not survive for consideration and requests the Court to dismiss the petition.

Admittedly, Annexure-B has been passed by the Director of Food and Civil Supplies on 17.7.2006. The said order has become final and the Deputy Commissioner on the same grounds has passed the order as per Annexure-R2 dt.28.11.2006. From the perusal of Annexure-R2, it is clear that the Deputy Commissioner by issuing a notice to the petitioner has not called upon the petitioner to show cause why the cards should not be withdrawn from him on the ground of violation of terms and conditions of authorisation. If some of the villagers are not willing to draw the ration from the petitioner's shop on account of the fact that the petitioner belongs to schedule caste, the same cannot be a ground for the Deputy Commissioner to pass an order as per Annexure-R2. This Court would have appreciated the act of the Deputy Commissioner in withdrawing the cards provided the petitioner had committed any illegality or irregularity in running any business. Such allegations are not there. Therefore, even if an order has been passed by the Deputy Commissioner as per Annexure-R2, this Court is of the opinion a direction has to be issued to the Deputy Commissioner to permit the petitioner to lift the food grains. If the card holders are of the opinion that the petitioner is not distributing the food grains in accordance with law, it is always open for such card holders to lodge a complaint and based on such complaint, it is for the concerned authorities under the Essential Commodities Act to conduct an enquiry and pass an appropriate order in accordance with law. The Deputy Commissioner cannot dance to the tune of the card holders as long as the petitioner has not violated any of the provisions of the Essential Commodities Act or P.D.S. Control Order 1992. If the cardholders for no fault of the petitioner are not willing to draw the food grains from the petitioner's shop, they need not draw the ration from the petitioner's shop. But the same cannot be the ground for the Deputy Commissioner to withdraw the cards from the petitioner's shop and assign the same to any other shop at the request of the card holders. The food grains are supplied under the Essential Commodities Act by the Government to give certain facilities to the privileged class. Such privileged class cannot dictate terms to the Government or any officer as long as the person who has been granted authorisation has not committed any illegality or irregularity or has not violated any of the terms and conditions of the licence granted to such authorised person.

4. In the circumstances, the Writ Petition is allowed. A direction is issued to the respondent to comply with the directions issued by the Director of Food and Civil

Supplies, Bangalore as per Annexure-B dt. 17.7.2006.