
(1989) 07 KAR CK 0021
In the Karnataka High Court
Case No : W.P. No. 3174/89, etc

H. Sadananda Shetty

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 13-07-1989

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Zilla Parishads, Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayats Act, 1983 — Section 182

Citation : (1989) 3 KarLJ 289

Hon'ble Judges : S. G. Doddakale Gowda, J

Judgement

S.G. Doddakale Gowda, J.-The question that arises for consideration in these series is the competency of Zilla Parishad/s and its/their officers to deal with the distribution of essential commodities and consequential grant/variation of licence issued to run fair price depots.

2. This issue arises in the context of revocation/variation of Licence/s by Zilla Parishad/s or its/their officers granted in some cases by the Deputy Commissioner/ Tahsildar under the Karnataka Essential Commodities Licensing Order, 1986 (hereinafter referred to as the "Licensing Order"). In some cases, variation/cancellation/suspension of licence granted by the Zilla Parishad/s itself by its Officers are questioned.

3. There is no unanimous view on the powers of the Zilla Parishad. Sri N. Devadas, learned High Court Government Advocate, appearing for some of the Zilla Parishads, traced the source of power of Zilla Parishad to Section 182 of the Karnataka Zilla Parishads, Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayats Act, 1983 (hereinafter referred to as the "Act") coupled with Government Order No. FTD/148/DRA/86, dated 26-3-1987 by which Government has entrusted Public Distribution Scheme to Zilla Parishads. Sri Somayaji, learned High Court Government Pleader, appearing for some of the Zilla Parishads, contended that grant of licence and such other incidental matters are still governed by the Licensing Order, but only contract is entered into with Zilla

Parishad for due enforcement of terms and conditions of a licence. Likewise some of the petitioners also contend that there is no conferment of power on Zilla Parishad or on its officers to deal with licence; some concede power of Zilla Parishad but dispute power of its Officers. This controversy is due to (i) dichotomy of powers and (ii) dual pattern adopted in making the essential commodity available to public.

DICHOTOMY OF POWERS

Both Union and the State are competent to legislate on essential commodities by virtue of Entry 33 of List III of Seventh Schedule of the Constitution which reads thus:

"33. Trade and commerce in, and the production, supply and distribution of:- (a) xxxxx xxxx xxxx (b) foodstuffs, including edible oil seeds and oils;

(c) xxxxx xxxx xxxx (d) xxxxx xxxx xxxx (e) xxxxx xxxx xxxx

5. The Parliament has enacted the Essential Commodities Act, 1955, As per section 3 of the Act, if the Central Government is of the opinion that it is necessary or expedient to maintain or increase supply of any essential commodity or for securing their equitable distribution and availability at fair prices may by an order regulate or prohibit the production, supply and distribution thereof. Sub-clause (d) of sub-section (2) of Section 3 of the Act states that without prejudice to the generality of the powers conferred under sub-section (1), the Central Government may by order provide for "regulating by licences, permission or otherwise, storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity." The Central Government may by a notified order delegate its power to the State Government or such officers or authority subordinate to the State Government to make orders or issue notifications under Section 5. By virtue of this power, the State Government has issued Karnataka Essential Commodities Licensing Order, 1986. "Dealer", "Retail Dealer", "Wholesaler", "Essential Commodity" and "Licensing Authority" are defined thus:

"Dealer" means a person engaged in the business of purchase, sale or storage for sale of any essential commodity whether or not in conjunction with any other business and includes his representative or agent;

"Retail Dealer" means a dealer dealing in any one of the trade articles mentioned in Schedule-I and who is not a wholesale dealer.

"Wholesaler" means a dealer who sells any one or more of the essential commodities specified in Schedule-I to other dealers or to bulk consumers.

"Essential Commodity" means any commodity specified in Schedule-I.

"Licensing Authority means any officer appointed by the State Government in this behalf to exercise the powers and perform the duties of the Licensing Authority under this Order and different Licensing Authorities may be appointed

for different areas or for different classes of dealers in different areas of the State."

As per clause 3 of the order no person shall after the commencement of this Order carry on business as a Dealer in any of the essential commodities mentioned in Schedule-I except under and in accordance with the terms and conditions of the licence issued by the Licensing Authority. First proviso of this clause exempts obtaining of licence to certain quantity. Licenses to wholesaler and retailer are issued in Forms B and D prescribed in Schedule-III of this order. The licence is issued for an year in the inception, but renewed from time to time. Clause 7 provides for refusal of grant of a licence. Clause 9 enables the Licensing Authority to cancel licence for contravention of terms and conditions of licence. Proviso states that no order shall be made under this clause unless the licensee has been given a reasonable opportunity of being heard. Sub-clause (2) of clause 9 enables the Licensing Authority to keep a licence under suspension pending enquiry. Clause 13 provides for an appeal. Licensing Authorities are enumerated in the table annexed to the Government Order dated 31-10-1986.

6. Zilla Parishad is constituted for the entire district excluding such portion of the District as are included in a Municipality or area under the authority or Municipal Corporation, a sanitary Board, a town Board or a notified area committee constituted under any law for the time being in force-Section 138(1) of the Act. The object of the enactment as set out in the preamble is to assign to the Local body the execution of certain works and development schemes, to provide for decentralisation of powers and functions under certain enactments for the purpose of promoting the development of democratic institutions and securing a greater measure of participation by the people etc. One of the obligatory functions of the Zilla Parishads as amongst others is distribution of essential commodities subject to such restrictions and conditions as may from time to time be specified by an order of the Government-item No. XV of Section 182. The Government may subject to such condition as it may think fit to impose entrust by an order published in the Official Gazette to a Zilla Parishad such powers and functions relating to any matter as are exercised and performed by Government or any officer of the Government, under any enactment which the State Legislature is competent to enact or its executive powers-Section 184. By this Act, the State Legislature has carved out a fragment of topic of essential commodity viz., the distribution and conferred power on Zilla Parishad to deal with distribution of essential commodity. This Act is not merely a later Act, but also received an assent of the President.

Several measures have been introduced to streamline and strengthen the distribution of essential commodities by a scheme what is known as "Public Distribution System", to ensure adequate and easy availability of essential commodities through fair price shop net work to all consumers. The subsidised foodgrains scheme introduced by the Government, with effect from 1st November 1985 has been entrusted to Zilla Parishad for implementation. The

beneficiaries covered under the subsidised foodgrain scheme get essential commodities at reasonable price. The distribution of essential commodities under the subsidised scheme is entrusted to fair price shops assigning certain number of ration cards. Rural families with an income of not less than Rs. 3,500/-; and all landless agricultural families and plantation labourers have been issued with green cards and are provided with 10 Kgs. of rice or a mix of 10 Kgs. of foodgrains at highly subsidised rate under Rs. 2/- per KG scheme. As per the Annual Report of the State of Karnataka, there are at present 16,544 fair price shops catering to the needs of the population of the State out of which 4,632 fair price shops are located in urban areas and 11,912 are in rural areas.

7. Government in its order, dated 26th March 1987 published in Karnataka Gazette has entrusted its power regarding distribution of essential commodities and the said order reads thus: licence and distribution of ration cards, establishment of fair price depots etc. Certain powers are reserved under clauses 1 to 5.

The Director, Food and Civil Supplies Department, through his Circular, dated 12-10-1987 (Annexure-R2) has given guidelines for issue of licence to run fair price depot. Sub-clause (a) of clause 5 of this Circular states that the Co-operative Societies or an individual who intend to establish a fair price depot must obtain a licence as per Licensing Order. Sub-clause (f) of clause 5 states that the licensee before obtaining permission for transportation of essential commodity must execute an agreement undertaking to abide by the terms and conditions of the licence. Clause 7 which reads thus:

states that cancellation of licence automatically cancels the agreement also and during the interregnum a co-operative society may be entrusted with the distribution of essential commodities.

The Director, Food and Civil Supplies Department, through his circular, dated 15-2-1988 (Annexure-R3) which reads thus:

(Authority means a legal power to do an act given by one man to another. Licence means an authority to do something which would otherwise be inoperative, wrongful or illegal.) (bracketed English Portion which is the dictionary meaning of "Authority" and "Licence" from is substituted).

has stated that hence-forward Zilla Parishads are competent to issue licence to run fair price depots in rural areas and are also competent to take such action against licensee for breach of terms and conditions of licence. Neither rules have been framed by Government under Section 284 of the Act nor regulations framed by Zilla Parishad under Section 285 of the Act providing procedure for grant of licence or for revocation etc., as provided in the" Licensing Order. Licensing Authority is not designated. In urban area, the authorities mentioned in the table annexed to notification No. FTD 157 FCS 79, dated 31st October 1986 exercise powers and perform duties of a Licensing Authority under the Licensing Order. In so far as the rural areas coming within the jurisdiction of the Zilla Parishad, it is

only the Zilla Parishad by virtue of its obligatory functions coupled with the entrustment of the implementation of the scheme by the Government or its officers, as are authorised can exercise powers and perform duties as a Licensing Authority.

8. Assuming for the sake of argument that Government have delegated its powers and functions under Section 184 of the Act, as per its order, dated 26th March 1987. Order does not specify whether that power should be exercised by Zilla Parishad itself or by its officers. In case the Zilla Parishad intends that its officers can deal with the matter of exercise powers and functions as a Licensing Authority, its power must be delegated as provided under Section 268 of the Act. Section 268 reads thus:

"268. Delegation of Powers.-The Zilla Parishad may by notification delegate to the Secretary or other officer any of the powers conferred by or under this Act on Zilla Parishads."

Undisputedly, there is no notification issued by any of the Zilla Parishads delegating its power either to the Chief Secretary, Deputy Secretary or BDO to exercise the powers and functions of a Licensing Authority.

Submission of Sri N. Devadas was that entrustment of the Scheme and conferment of power on Zilla Parishad to deal with distribution of essential commodity carries with all incidental or ancillary power to deal with licence including cancellation/variation and suspension. Assuming for the sake of argument that Zilla Parishad have got such powers, impugned orders made by the Chief Secretary, Deputy Secretary, B.D.O. other than the Zilla Parishad must be held to be illegal and arbitrary.

DUAL PATTERN

9. The essential commodity procured by way of levy is distributed through fair price depot. A certain percentage of essential commodity is available in open market as free rice/wheat after surrender of levy. As per clause 3 of the Licensing Order, no person shall carry on a business in essential commodity except in accordance with the terms and conditions of the licence issued by the Licensing Authority. The Essential Commodity whether freely available or procured through levy can only be dealt with by a licensee. Fair price depots are opened by the Government, Zilla Parishad to distribute essential commodities under public distribution scheme. Submission of Sri Devadas was that a licensee entrusted with fair price depot to sell commodity is known as Authorised Agent and all licensees are not Authorised Agents. His submission was that it was open to Zilla Parishad to choose its Authorised Agent/s having due regard to the guidelines issued by Government. Authorised Agent sell the essential commodities to card holders issued by the Zilla Parishad/Mandal Panchayat or any other authority. A licensee who can deal in essential commodities but not appointed as authorised agent is not subjected to such rigour. Drawing a distinction between a licensee to carry on fair price depot and a licensee other

than the one to run a fair price depot, submitted that all licensees are not entrusted with distribution of essential commodity through fair price depot; but order requires all persons who deal in essential commodities to obtain licence.

Essential commodity procured by the Food Corporation of India is distributed through Karnataka Food and Civil Supplies Corporation/Department which in turn distributes through authorised agents. In rural areas essential commodities are distributed through fair price depots only to card holders. Card holders are of two types-(i) green card holders and (ii) saffron card holders. Green card holders are entitled to receive the essential commodities at a lesser price (Rs. 2/-) lesser price than the price of commodity sold to saffron card holders. A licensee appointed as authorised agent alone can receive essential commodities from Food and Civil Supplies Corporation/Department at subsidised rates so as to distribute it to card holders. A licensee-whether a wholesaler or retailer-who purchases essential commodities or sells in open market, is not an authorised agent. With this distinction, his submission was that the rights of an authorised agent flows from a contract entered into with the Zilla Parishad, hence, remedy under Art. 226 is misconceived.

NATURE OF RIGHT

10. The next question would be whether the grant of licence is governed by a statute/statutory order or flows from a contract?

11. Licence issued under licensing order in forms B and D itself states that subject to the provisions of the Karnataka Essential Commodities Licensing Order and to the terms and conditions of Licence Sri/M/ S..... is hereby authorised to purchase, sell, store, be it issued to an authorised agent or any other person. The only distinction that exists is that an authorised agent for the purpose of distribution of essential commodities to green card holders and saffron card holders at subsidised rate has to necessarily purchase the essential commodities from the Food and Civil Supplies Corporation/Department, as the case may be. The rest of the licensees are at liberty to purchase and sell the essential commodities available in open market.

12. Learned Advocates appearing for Zilla Parishads as well as those who have obtained licence subsequently relying on the decisions of this Court in *Mahadeshwara Stores v State of Karnataka and Others* [1983(2) Kar.L.J. 201] and *K.S. Pandurangappa and Others v The Chief Secretary; Zilla Parishad, Tumkur and Another* (W.Ps 930 to 933 of 1989: DD: 28th February 1989) contended that the petitioners are not entitled to relief under Article 226 of the Constitution of India.

Clause 3 of the Licensing Order enjoins a person not to carry on a business in essential commodities except under and in accordance with the terms and conditions of the licence granted by a Licensing Authority. Clause 7 provides for refusal assigning reasons. The Proviso to clause 9 of the Licensing Order states

that no cancellation shall be made unless a licensee has been given a reasonable opportunity of being heard. Sub-clause (2) of Section 9 enables a Licensing Authority to keep a licence under suspension pending enquiry. Aggrieved licensee has a remedy by way of an appeal as provided under clause 13, of the Licensing Order.

Guidelines issued by the Government and the Director as per Annexure-R1 to R-3 slate that the procedure prevalent for grant of licence or for taking action shall be followed. Grant of licence/revocation/variation/suspension are governed by the licensing Order issued under Section 3 of the Essential Commodities Act. Contract is entered into by the licensee for compliance of the terms and conditions of the licence and also provide for forfeiture of earnest money deposit in case of breach of the terms. When the grant of licence/suspension/revocation in urban areas is governed by the Licensing Order, can there be a different procedure for grant of licence/revocation/cancellation of licence in rural areas or whether the nature of right would be different in rural areas?

13. The conclusion in Pandurangappa"s case which reads thus:

"For these reasons, though the ruling in Mahadeshwara Stores may not be applicable to this case, the decision of the Supreme Court that in respect of matters which come squarely within the field of private law, i.e., the contract between the parties, the aggrieved party must approach the Civil Court and not this court under Article 226."

rested on the ground that the right flowed from a private law. Hence, no relief was granted under Article 226 of the Constitution of India. In Mahadeshwara Stores case, a Division Bench of this Court relying on the decision of the Supreme Court in *Sarkari Sasta Anaj Vikreta Sangh v State of MP (1981(3) Scale 1413 SC)* held thus:

"The terms and conditions in the agreement relate to the respective obligations to be carried out by the parties under that agreement. Its concluding part shows that it has been entered into on behalf of the State Government.

However, there is absolutely nothing in the agreement to indicate that it is entered into by the State Government in exercise of any statutory power. In our view, the full text of the agreement clearly demonstrates that the agreement is one which is brought into existence by the State Government in exercise of its executive power."

and stated that the remedy for enforcement of such contractual obligation was not under Article 226 of the Constitution.

The ratio of the said decision may not have any bearing. Firstly, prohibition as contained in clause 3 of the Licensing Order to the effect that no person shall carry on business as a "Dealer" in essential commodities arose for consideration. Secondly, dealers, be it in urban area or rural area are not exempted from the provisions of this order. If a dealer appointed as authorised agent in urban area

is governed by such provisions, can it be said a dealer appointed as authorised agent in rural area is governed by different set of procedure? Thirdly, guidelines provided in Circulars (Annexures-R1 to R-3) for implementation of the scheme establishing Fair Price Depots, so as to make essential Commodities at fair prices (one of the object embraced in Section 3 of the Act) stipulate adherence of procedure prevalent (except the procedure provided under the Licensing Order, no other procedure was brought to my notice). Lastly, as long as there is a law governing grant of licence to carry on business in essential commodities, question of executive power will not arise.

14. Both in Mahadeshwara Stores case and Pandurangappa's case, there is no reference to the scheme/rules viz., whether the contract follows the licence or the licence follows contract. Licences are issued under a statutory order and contracts are entered into only thereafter either with Government or Zilla Parishad to fulfill the terms and conditions of licence though the rules do not enjoin such contracts.

15. Supreme Court in *M/s. Raj Restaurant v Municipal Corporation, Delhi* (A.I.R. 1982 SC 1550) has held thus:

"Where, in order to carry on business a licence is required, obviously refusal to give licence or cancellation or revocation of licence would be visited with both civil and pecuniary consequences and as the business cannot be carried on without the licence it would also affect the livelihood of the person. In such a situation before either refusing to renew the licence or cancelling or revoking the same, the minimum principle of natural justice of notice and opportunity to represent one's case is a must." (emphasis supplied)

Unfortunately, there is no reference to the binding decision of the Supreme Court in the decisions cited supra.

Hence, any adverse order made cancelling licence without complying with the principles of natural justice must be declared to be null and void.

Sri Devadas submitted that as licensees are distributing essential commodities to card holders, the declaration of such licence/s as invalid would upset the entire set up and would create confusion in distribution as there would be no authority to distribute essential commodities. He further submitted that the enunciation of law would suffice and Zilla Parishads would take action to set right things in accordance with law.

In some cases the petitioners have obtained an interim order and in some cases there is no interim order. If the Court were to accede to such a request there would be an admixture of benefit and loss; the persons who have obtained interim order would continue to function and in cases where there is no interim order, licence/s cancelled will have to be restored. The Circular also provides that in such a situation the distribution may be entrusted to a co-operative society. Having declared the cancellation/variation/suspension as illegal and invalid, the

Court must necessarily quash them as void and illegal.

Merit of impugned order in each of these writ petitions considered on the basis of the above conclusion.

Writ Petition No. 3174 of 1989

One Abubaker was carrying on a fair price depot. After cancellation of his licence, the cards assigned to that fair price depot were allotted to Kulur Rameshwara Vyavasaya Seva Sahakara Sangha, Hosnagar, as a stop gap arrangement. On recommendation of the members of the Zilla Parishad, the petitioner was granted licence on 6-1-1989 (Annexure-A) and the cards which were assigned to that society were allotted to petitioner. On receipt of complaints by the residents of Kachchige Bailu village, reassigned the cards to that society depriving the petitioner, the privilege of running the fair price shop- vide Annexure-D. As the grant of licence by the Chief Secretary himself is without jurisdiction, I decline to interfere with the revocation order as it has not resulted in substantial prejudice. Writ petition is dismissed. Rule discharged.

Writ Petition No. 15922 of 1988:

Cancellation of licence granted by the Zilla Parishad on 28-9-1988 (Annexure-E) by the Chief Secretary of Zilla Parishad, Gulbarga and entrustment to fourth respondent is challenged on the ground that the Chief Secretary had no competency to annul the licence granted by the Zilla Parishad and that too without providing an opportunity of hearing.

In view of the position of law explained above, this writ petition succeeds, Impugned order is hereby quashed reserving liberty to take such action as is permissible under law. Rule made absolute.

Writ petition Nos. 10413 and 10414 of 1988: The Deputy Commissioner, Mysore, by the impugned order, dated 23-5-1988 has not merely confiscated the food articles which were on transportation to Santhepet, Mysore, depriving the card holders, but also cancelled the, licence. The Chief Secretary i.e., the third respondent, relying on the order of the Deputy Commissioner referred to above, has cancelled the licence- vide Annexure-E, dated 14-6-1988. There is no material as to whether the licence was issued by the Deputy Commissioner or the Zilla Parishad to these petitioners. By means of an amendment application, the additional prayer sought for is to quash Annexure-F, dated 17-12-1988 by which the Chief Secretary of Zilla Parishad, Mysore, has granted licence in favour of three other persons to run a fair price depot. Unfortunately, though there is a prayer to amend, no attempts are made to implead them as parties. Without impleading them, the order by which licence has been granted in their favour cannot be quashed. Hence, no purpose would be served by quashing Annexure-E.

Writ petition is accordingly dismissed. Rule discharged

Writ Petition No. 11712 of 1988

Orders, dated 16-6-1988 (Annexure-E) and 22-8-1988 (Annexure-F) of the Chief Secretary, Zilla Parishad, Hassan, keeping the licence of petitioner under suspension and cancelling by a latter order are challenged in this writ petition.

In view of the position of law enunciated above, writ petition succeeds; impugned orders are hereby quashed reserving liberty to Zilla Parishad, Hassan, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 5862 of 1988:

Order, dated 10-3-1988 (Annexure-D) of the Chief Secretary, Zilla Parishad, Chitradurga, conveying the decision of the Sub-Committee of the Zilla Parishad to keep the licence of petitioner under suspension is challenged in this writ petition.

For the reasons stated above, neither the Sub-Committee nor the Chief Secretary is competent to keep the licence under suspension. Accordingly, writ petition is allowed; impugned order is hereby quashed reserving liberty to the Zilla Parishad, Chitradurga, to take action as is permissible under law. Rule made absolute.

Writ Petition No. 12216 of 1988:

Order, dated 1-8-1988 (Annexure-B) of the Chief Secretary, Zilla Parishad, Mandya, cancelling the licence issued in favour of petitioner to run fair price depot and also forfeiting the security deposit is challenged in this writ petition.

For the reasons stated above, writ petition succeeds; impugned order is hereby quashed reserving liberty to Zilla Parishad, Mandya, to take action as is permissible under law. Rule made absolute.

Writ Petition No. 2036 of 1989:

The resolution of the Zilla Parishad, Bijapur, resolving to grant licence in favour of third respondent to run a fair price depot vide Annexure-A is challenged in this writ petition.

Contention of the petitioner is pursuant to the recommendation made by the B.D.O., Mandal Panchayat has undertaken the distribution and is distributing the essential commodities effectively. In view of the entrustment of the scheme to Zilla Parishad it is only the Zilla Parishad that can decide through whom the essential commodities should be distributed to card holders Hence, matter does not call for interference.

Writ petition is dismissed.

Writ Petition No. 8786 of 1988:

Order, dated 23-5-1988 (Annexure-C) of the Deputy Commissioner, Mandya, cancelling the licence issued in favour of the petitioner to run fair price depot and forfeiting the earnest money deposit as well as an order, dated 28-5-1988

(Annexure-D) of the Deputy Director, Food and Civil Supplies Dept., Mandya declining to renew the licence are challenged in this writ petition on the ground that they have no authority to cancel the licence.

For the reasons stated above, writ petition succeeds; impugned orders are hereby quashed reserving liberty to the first respondent-Zilla Parishad, Mandya, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 16676 of 1988:

By a notice, dated 21-10-1988 (Annexure-C) the petitioner was called upon to show cause why licence issued should not be annulled. By another order, dated 14-11-1988 (Annexure-E) the Deputy Secretary, Zilla Parishad, has kept the licence under suspension and temporarily assigned those cards to Sri Nanjundeshwara Yuvaka Sangha for distribution of essential commodities to the card holders. There being no delegation of power of the Zilla Parishad as required under Section 268 of the Act, impugned order is hereby quashed; reserving liberty to Zilla Parishad to take such action as is permissible under law. Writ petition is allowed. Rule made absolute.

Writ Petition No. 444 of 1989:

Grant of licence to run a fair price depot at Shampura-vide Annexure-B, dated 14-10-1988-by the Chief Secretary, Zilla Parishad, Kolar, is challenged by the petitioner-a co-operative society. Apart from the plea that the Chief Secretary had no competency to issue licence, it was contended that the Zilla Parishad has not adhered to the guidelines issued for grant of licence viz., the priority mentioned therein.

For the reasons stated above, this writ petition succeeds; that portion of the order in Annexure-B granting licence in favour of the third respondent is hereby quashed reserving liberty to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 742 of 1989:

The entrustment of ration cards to fourth respondent, a co-operative society, after cancelling the licence in favour of the petitioner-vide Annexure-D, dated 5-12-1988 by the Chief Secretary, Zilla Parishad, Kolar is challenged in this writ petition.

For the reasons stated above, this writ petition succeeds; impugned order is hereby quashed; reserving liberty to Zilla Parishad to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 1962 of 1989:

Bifurcation of ration cards and assigning few cards in favour of the third respondent, Womens Multipurpose Co-operative Society, as per order, dated 11-1-1988 (Annexure-C) by the Deputy Secretary, Zilla Parishad, Mandya, is

challenged in this writ petition on the ground that it is an order made adverse to his interest without notice to him and also without authority of law.

For the reasons stated above, writ petition succeeds; impugned order is hereby quashed reserving liberty to Zilla Parishad, Mandya, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 8562 of 1989:

Grant of licence in favour of the third respondent, by the Deputy Secretary, Zilla Parishad, Kolar-Vide Annexure-B, dated 13-4-1989 is challenged in this writ petition on the ground that he had no competency to grant licence.

For the reasons stated above, this writ petition succeeds. Impugned order granting licence in favour of third respondent is hereby quashed reserving liberty to Zilla Parishad, Kolar, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 9386 of 1989:

Order, dated 6-4-1989 (Annexure-D) communicating the decision of the Zilla Parishad, Chitradurga, that the licence issued in favour of the petitioner has been annulled is questioned in this writ petition. So long as there is no delegation of its power to its Officers under Section 268 of the Act, the decision of the Zilla Parishad cannot be said to be illegal or void. However, as there is non-compliance of principles natural justice, writ petition is allowed; impugned order is hereby quashed reserving liberty to Zilla Parishad, Chitradurga to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 10173 of 1989:

Order, dated 22-4-1989 (Annexure-A) of the Joint Director of Food Supplies, Bangalore, cancelling the licence issued in favour of petitioner to run a fair price depot is challenged in this writ petition. As the petitioner has got an alternative remedy under Rule 13 of the Licensing Order, Writ petition is dismissed. Rule discharged.

Writ Petition No. 10370 of 1989:

Order, dated 20-3-1989 (Annexure-C) of the Chief Secretary, Zilla Parishad, Kolar, keeping the licence under suspension is questioned in this writ petition. In view of the conclusion that the Chief Secretary has no authority, impugned order is hereby quashed; reserving liberty to Zilla Parishad, Kolar, to take such action as is permissible under law. Writ petition succeeds. Rule made absolute.

Writ Petition No. 3439 of 1989:

Cancellation of licence issued in favour of petitioner to run a fair price depot by the Chief Secretary, Zilla Parishad, Mysore, vide Annexure-A, dated 15-1-1989 is challenged in this writ petition.

For the reasons stated above, writ petition succeeds; impugned order is hereby quashed reserving liberty to Zilla Parishad, Mysore, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 9616 of 1989:

Order, dated 25-5-1989 (Annexure-F) of the Chief Secretary of the Zilla Parishad, Gulbarga, cancelling the licence issued in favour of the petitioner to run a fair price depot is challenged in this writ petition.

For the reasons stated above, writ petition succeeds; impugned order is hereby quashed reserving liberty to Zilla Parishad, Gulbarga, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 9489 of 1989:

Tahsildar, Karkala, by his order, dated 30th April 1988, cancelled the licence issued in favour of the second respondent to run a fair price depot. Vice-President of the Zilla Parishad, as per order, dated 11-5-1989 referred to at item No. 2 in the preamble of Annexure-A, restored the licence. The first respondent by impugned order, dated 23-5-1989 (Annexure-A) has given effect to the orders of Vice-President, the validity of which is challenged in this writ petition.

The restoration of licence by the Vice-President of Zilla Parishad being illegal, the implementation as per order Annexure-A is also illegal.

Accordingly, writ petition is allowed. Impugned order is hereby quashed reserving liberty to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 5904 of 1989:

Order, dated 23-3-1989 (Annexure-A) of the Deputy Secretary, Zilla Parishad Kolar, cancelling the licence issued in favour of the petitioner to run a fair price depot is challenged in this writ petition.

For the reasons stated above, writ petition succeeds; impugned order is hereby quashed reserving liberty to Zilla Parishad, Kolar, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 10697 of 1989:

Order of the Chief Secretary, Zilla Parishad, Mysore, dated 24-3-1988 (Annexure-A) keeping the licence of the petitioner under suspension is challenged in this writ petition. For the reasons stated above, writ petition succeeds; impugned order is hereby quashed reserving liberty to Zilla Parishad, Mysore, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 10933 of 1989:

Order, dated 15-6-1989 (Annexure-D) of the Deputy Secretary, Zilla Parishad, Kolar, cancelling the licence issued in favour of petitioner is challenged in this writ

petition.

For the reasons stated above, writ petition succeeds; impugned order is hereby quashed reserving liberty to Zilla Parishad, Kolar, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 11235 of 1989:

Order, dated 25-3-1989 (Annexure-C) of the Chief Secretary, Zilla Parishad, Chitradurga, cancelling the licence issued in favour of the petitioner is challenged in this writ petition.

For the reasons stated above, writ petition is allowed; impugned order is hereby quashed reserving liberty to Zilla Parishad, Chitradurga, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 10543 of 1989:

Order, dated 9-6-1989 (Annexure-D) of the Chief Secretary, Zilla Parishad, Bangalore District, Bangalore, cancelling the licence issued in favour of the petitioner is challenged in this writ petition.

For the reasons stated above, writ petition is allowed; impugned order is hereby quashed reserving liberty to Zilla Parishad, Bangalore District, Bangalore, to take such action as is permissible under law. Rule made absolute.

Writ Petition No. 10862 of 1989:

Order, dated 26-7-1988 (Annexure-C) of the Deputy Commissioner, Tumkur, Cancelling the licence issued in favour of the petitioner to run a fair price depot and order, dated 22-5-1989 (Annexure-D) of the Director of Food and Civil Supplies dismissing the appeals are challenged in this writ petition.

From the records made available, it is not possible to make out whether licence was issued by the Licensing Authority under the Licensing order or by the Zilla Parishad, Tumkur. If the operation of the area for distribution of essential commodities by the petitioner falls within the jurisdiction of the Zilla Parishad, necessarily it will have the power to deal with an issue or cancellation of licence to petitioner. In which event, neither the Deputy Commissioner, Mysore, nor the Director of Food and Civil Supplies will have the competency to deal with the matter.

Hence, writ petition is allowed. Impugned orders are hereby quashed. Matter is remitted to the Deputy Commissioner, Tumkur for fresh disposal in the light of the position of law. Rule made absolute.