
(1995) 08 KL CK 0018
In the High Court Of Kerala
Case No : W.A. No. 639 on 1994-A

Joseph, M.A.

APPELLANT

Vs

Taluk Supply Officer and Others

RESPONDENT

Date of Decision : 30-08-1995

Acts Referred:

Citation : (1995) 08 KL CK 0018

Hon'ble Judges : M.M. Pareed Pillay, C.J;P. Shanmugam, J

Bench : Division Bench

Advocate : N. Viswanatha Iyer, for the Appellant; N.S. Menon, Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Pareed Pillay, C.J.—Appellant was the authorised retail distributor of A.R.D. No. 151 of Cherthala Taluk. The Taluk Supply Officer conducted inspection on 16th June 1984 and found huge shortage in respect of different items of articles in the ration shop. Ext. P-1 proceedings were initiated by the District Supply Officer (2nd Respondent) on the basis of the report of the Taluk Supply Officer (first Respondent). Appellant was issued show cause notice as to why the dealership in his name should not be cancelled. Considering his representation the second Respondent held that the allegations made against him in the report of the Taluk Supply Officer were correct in respect of rice, wheat, sugar and kerosene. Having heard the arguments of the Appellant the second Respondent ordered cancellation of the dealership of the Appellant. The security amount was also forfeited.

2. Appellant filed appeal before the District Collector (third Respondent). The appeal was dismissed by Ext. P-3 order. Appellant filed revision petition before the Board of Revenue and that also ended in dismissal by Ext. P-4. Thereafter Appellant moved the Government in second revision. Government declined to interfere and the revision petition was dismissed as per Ext. P-5 order.

3. Appellant filed the Original Petition challenging the proceedings of all the authorities right upto Ext. P-5 order of the Government. The learned Single Judge dismissed the Original Petition holding that the findings arrived at by the authorities cannot be interfered with by this Court and that the punishment imposed cannot be said to be disproportionately high.

4. Contention of the Appellant is that this is a case where the Taluk Supply Officer has conducted enquiry and so he should himself have passed the order and as that has not been done and as Ext. P-2 order was passed by the District Supply Officer the same cannot have any legal validity. The question that arises for consideration is where the Taluk Supply Officer has found that the authorised retail distributor has contravened any of the provisions of the Kerala Rationing Order and has transmitted the report to the District Supply Officer whether the latter has power to suspend or cancel the appointment of the dealer. In other words can it be held that in a case where the Taluk Supply Officer has found contravention of the provisions of the Kerala Rationing Order he alone is entitled to pass the consequential order. Appellant's contention is that transfer of the file to the District Supply Officer by the Taluk Supply Officer was not properly done. According to him Taluk Supply Officer alone had the power to pass the order he having found contravention of the provisions of the Kerala Rationing Order. To sum up, Appellant contended that the order passed by the District Supply Officer cannot have any legal validity as he lacked jurisdiction to pass the impugned order in a case where action was initiated by the Taluk Supply Officer.

5. Clause 45(8) of the Kerala Rationing Order enables the District Collector or any officer of the Civil Supplies Department not below the rank of a Taluk Supply Officer to vary, suspend or cancel the appointment of an authorised retail distributor whenever it is found that he has contravened any of the provisions of the Kerala Rationing Order or any of the directions issued thereunder. This he may do on receipt of a report from any of the officers referred to in Sub-clause (7) or on his own inspection of the stocks and accounts in a shop. If any shortage or excess of the quantity of rationed articles or any irregularities in the accounts are found or if any non-compliance of any directions issued by the competent authorities is directed the power of variation, suspension or cancellation of the appointment and or forfeiture of the whole or any part of the amount deposited by the authorised retail distributor as security can be effected.

6. Sub-clause 45(9) begins with a non-obstante clause. It states that notwithstanding the provisions contained in Sub-clause (8) the District Collector or any officer of the Civil Supplies Department not below the rank of a District Supply Officer may after giving the authorised retail distributor an opportunity of stating his case and for reasons to be recorded in writing, vary suspend or cancel his appointment whenever in the opinion of the District Collector or other officer it is in the interest of the general public necessary or expedient so to do, and in every such case the authorised retail distributor shall surrender on demand to the District Collector or other officer the order of appointment for endorsement

or cancellation as the case may be. In view of Sub-clause (9) contention of the Appellant that the District Supply Officer lacked jurisdiction in passing Ext. P-2 order cannot be sustained. Ext. P-1 notice was issued by the District Supply Officer as he was informed of the contravention of the provisions of the Kerala Rationing Order by the Taluk Supply Officer. Though the Taluk Supply Officer himself could have initiated action under Sub-clause (8) it cannot be said that the action initiated by the District Supply Officer under Sub-clause (9) is bad. Reading of Sub-clauses (8) and (9) would show that even in a case initiated by the Taluk Supply Officer the District Supply Officer or any officer of the Civil Supplies Department not below the rank of a District Supply Officer will be legally entitled to enquire into the matter and impose consequential punishment. Contention of the Appellant that in a case where the Taluk Supply Officer has initiated action the District Supply Officer cannot get jurisdiction to impose punishment is not tenable. Sub-clause (8) makes the position clear that District Supply Officer or any officer of the Civil Supplies Department not below the rank of a District Supply Officer on finding contravention of the provisions of the Kerala Rationing Order is empowered to impose punishment.

7. This is a case where the dealership of the Appellant was cancelled as per Ext. P-2. Proviso to Sub-clause (8) states that the power of cancellation of appointment shall be exercised only by the authority competent to make the appointment or a higher authority. As the District Supply Officer was the authority appointing the Appellant as the authorised retail distributor he alone could have cancelled the appointment. That was precisely the reason why Ext. P-2 order was passed by the District Supply Officer. If grave irregularities are noticed in a case initiated by the Taluk Supply Officer and if it is found to be one entailing cancellation of the appointment the District Supply Officer can certainly pass the order. Appellant's contention that Taluk Supply Officer being the authority who initiated the proceedings alone could have passed the consequential order and that the District Supply Officer lacked jurisdiction to pass the same cannot be accepted.

8. The District Supply Officer, Commissioner of Civil Supplies and the Government have found on facts that the Appellant's case is devoid of merit. It cannot be said that this is a case where there is violation of the principles of natural justice. Appellant did not raise such a contention either in the revision petition before the commissioner or in the second revision before the Government.

9. The final contention that the punishment imposed is disproportionately high also is not tenable in view of the facts divulged so far as the shortage of rationed articles is concerned.

The learned Single Judge was justified in dismissing the Original Petition. We see no merit in the appeal. Writ Appeal is dismissed.

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