
(2014) 09 KAR CK 0217

In the Karnataka High Court

Case No : Writ Petition No. 55580/2013 (GM-EC)

K.R. Basavaraju

APPELLANT

Vs

The Deputy Commissioner

RESPONDENT

Date of Decision : 10-09-2014

Acts Referred:

Citation : (2014) 09 KAR CK 0217

Hon'ble Judges : A.N. Venugopal Gowda, J

Bench : Single Bench

Advocate : H.C. Shivaramu, Advocate for the Appellant; H.B. Mahesh, HCGP, Advocate for the Respondent

Judgement

A.N. Venugopal Gowda, J.—Petitioner was issued with a licence under the provisions of Karnataka Essential Commodities Licensing Order, 1986. On 05.01.1994, fresh authorisation was issued by the 1st respondent, under the KEC (PDS) Control Order, 1992. On 23.03.2005, an order was passed by the 2nd respondent and communicated to the 3rd respondent, to make alternate arrangements in respect of 108 cards of Kilagere Village. Petitioner, when questioned the same in Appeal No. 16/2005-06, the Commissioner for Food and Civil supplies, by an order dated 23.06.2005, set aside the said order passed by the 2nd respondent. On 29.07.2005, an order was passed by the 1st respondent directing alternate arrangement for distribution of food grains and kerosene oil to 108 card holders of Kilagere Village through Moodalahosahalli FPD Point. An interim direction was issued on 19.01.2006 by the 1st respondent, to continue the allotment of food grains in favour of the petitioner in view of an interim order passed in Appeal No. 79/2005-06, filed against the order dated 29.07.2005 passed by the 1st respondent. On 06.09.2008, a memorandum was issued by the 2nd respondent, directing restoration of 108 cards in favour of the petitioner, as directed by the Appellate Authority. The 1st respondent having passed an order dated 24.10.2008, removing 226 cards from the petitioner's shop, representations dated 01.07.2013 and 12.11.2013 was submitted by some of the

card holders and the petitioner. Finding no response, this writ petition was filed questioning an order of the 1st respondent dated 24.10.2008, as at Annexure-J.

2. Heard learned advocates on both sides and perused the writ petition record.

3. While passing the order at Annexure-J, the 1st respondent by taking note of a communication dated 20.09.2008, ordered for removal of 226 cards (24 Antyodaya, 143 Akshaya & 59 APL) from the petitioner's shop and made over the same to District Manager, KFCSC, Chamarajanagar. A communication of the petitioner, available in the records of the 1st respondent, i.e., at page No. 29, made available for my perusal reads as follows:

4. Though the petitioner consented for shifting of 23 Antyodaya and 138 BPL card holders to the District Manager, KFCSC, Chamarajanagar, the 1st respondent has ordered the shifting of 226 cards which is arbitrary. Petitioner ought to have been provided with reasonable opportunity of hearing, in case more cards than the one to which has consented for transfer were to be shifted, while passing the order at Annexure-J. Since more cards than those consented for by the petitioner has been transferred, the petitioner has suffered adversely. On account of violation of the principles of natural justice, the impugned order calls for interference.

In the result, writ petition is allowed in part and the order at Annexure-J, to the extent of the cards over and above which the petitioner consented as per his communication dated 20.09.2008 is quashed. The 1st respondent is directed to grant opportunity of hearing to the petitioner and District Manager, KFCSC, Chamarajanagar and then take decision in the matter. However, till decision is taken, the arrangement made as per the order at Annexure-J shall continue.

Petitioner is directed to appear before the 1st respondent, on 27.09.2014 at 3.00 p.m., file the objections, if any, and receive further orders. The 1st respondent is directed to pass fresh orders by keeping in view the observations made supra and in accordance with law, with expedition and before 31.12.2014.