
(2014) 06 KL CK 0198
In the High Court Of Kerala
Case No : WP(C). No. 19804 of 2013 (A)

Leelama Jose

APPELLANT

Vs

Deputy Controller of Rationing

RESPONDENT

Date of Decision : 02-06-2014

Acts Referred:

Citation : (2014) 06 KL CK 0198

Hon'ble Judges : A.M. Shaffique, J

Bench : Single Bench

Advocate : M.V. Bose, Smt. Nisha Bose and Sri Vinod Madhavan, Advocate for the Appellant; Anitha Raveendran, Senior Government Pleader for R1, R2 and R3, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

A.M. Shaffique, J.—Petitioner has filed this writ petition challenging Ext. P2 by which pursuant to an inspection conducted on 24.5.2013, the petitioner's wholesale distribution licence has been cancelled.

2. Petitioner is a wholesale dealer in rationing articles. This writ petition was filed at a time when no intend was issued in her favour for collecting ration articles.

3. During the pendency of the writ petition, the petitioner was served with Ext. P3 dated 30.7.2013 by which her dealership has been suspended pending enquiry. Hence, the petitioner filed I.A. No. 11565/2013 to stay operation of Ext. P3. In fact, even while admitting the writ petition, there was a direction to provisionally permit the petitioner to carry on the wholesale distribution on the basis of Ext. P1 licence.

4. Counter affidavit is filed by the 2nd respondent inter alia stating that copy of the suspension order was served on the petitioner on 12.8.2013 and the suspended licensee will be given an opportunity of being heard only after issuing charge memo to the petitioner. While further proceedings were taken, interim order came to be passed permitting the petitioner to continue business for two

weeks. According to the respondent, they have to take further proceedings pursuant to the order of suspension.

5. The learned counsel for the petitioner relies upon a judgment of this Court in *Chacko K. v. Taluk Supply Officer and Others*, 2010(1) KHC 461. In that case, this Court had occasion to consider the validity of the suspension order. It was taking into consideration the factual situation in the matter that this Court held that the order of suspension was bad in law. Reference was made to a Division Bench judgment of this Court in *Kumaranellur Co-operative M. Society v. V.B.K. Menon*, 1985 KHC 420. It was observed in the said judgment that clause 51(8) of the Kerala Rationing Order is *pari materia* with clause 45(8) and that the power to suspend can be exercised only with notice to the licensee. It is held that before action under clauses 51(8) and 51(9) is taken, the dealer is entitled to present his case and that an order issued without notice and opportunity to the dealer is void being issued in violation of principles of natural justice.

6. Having regard to the above circumstances, I am of the view that Ext. P3 is liable to be set aside and accordingly this writ petition is disposed of as follows:

Ext. P3 is set aside. There will be a direction to the 1st respondent to take further proceedings against the petitioner after issuing notice and after giving an opportunity for hearing. The entire process shall be completed within two months from the date of receipt of a copy of this judgment.