
(2009) 05 KL CK 0069

In the High Court Of Kerala

Case No : WP (C) . No. 10286 of 2009 (E)

M.N. Hanees Khan

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 25-05-2009

Acts Referred:

Citation : (2009) 05 KL CK 0069

Hon'ble Judges : V. Giri, J

Bench : Single Bench

Advocate : V.V. Asokan, for the Appellant; Mathew John (K), for the Respondent

Final Decision : Dismissed

Judgement

V. Giri, J.—Heard Sri. V.V Asokan, learned Counsel for the petitioner, Sri. P.N. Santhosh, learned Government Pleader and Sri. Mathew John, learned Counsel appearing for the 4th respondent.

2. Challenge in the writ petition is against the order passed by the District Collector as affirmed by the appellate authority, the Commissioner of Civil Supplies and further affirmed by the Government, the revisional authority, appointing the 4th respondent as the authorized wholesale dealer of AWD-VII at Ettumannur. The writ petitioner and six others responded to the notification dated 6.1.2006. The eligibility of the applicants was enquired into by the Taluk Supply Officer and going by the records and the order passed by the District Collector as also the Commissioner of Civil Supplies, the Taluk Supply Officer had given reports on different dates; one on 17.5.2006 and another as Exhibit-P1 dated 15.9.2006. What is relevant in so far as this petitioner is concerned is that the Taluk Supply Officer had originally reported that the petitioner is not a resident of Ettumannur, wherein the dealership is to be located. A different report was made under Exhibit-P1. The District Collector, the authority competent to award the dealership took note of these inconsistencies and called upon the Revenue Divisional Officer to conduct an enquiry. The Revenue Divisional Officer

conducted an enquiry and reported that the petitioner is normally a resident of Erattupetta. His name is included in the voters list in Erattupetta Panchayat and he had exercised his franchise at the last Panchayat election and Assembly election at Erattupetta. The relevant details as regards the 4th respondent was also considered. It was inter alia found that he is a resident of Thellakom in Ettumannor Panchayat. In so far as the convenience and suitability of the building of the 4th respondent is concerned the building proposed by the 4th respondent was found to be convenient and suitable. Though he had obtained a consent of only three of the six legal heirs who are owners of the building initially, later he obtained the consent of all parties and produced the same before the District Collector, who was called upon to take a final decision. On a meticulous appreciation of the relevant details the authority proceeded to find that the 4th respondent is eligible for appointment. In so far as the petitioner is concerned, the District Collector gave three reasons to find against him namely that he is not a resident of the locality; the building made available by him does not have adequate parking facility and the building owner has not given consent beyond 31.3.2007.

3. In appeal the Commissioner of Civil Supplies re-appreciated the materials, considered each one of these contentions and concurred with the original authority as is evidenced by Exhibit-P3.

4. On further revision, the Government by Exhibit-P7 order concurred with the decision of the District Collector and the Commissioner of Civil Supplies and dismissed the revision. Hence the writ petition.

5. Learned Counsel for the petitioner submits that the finding of the authorities that the petitioner has not produced materials to show that he is a resident of the locality does not seem to be correct. He referred to Exhibit-P1 to show that the Taluk Supply Officer reported that he is a resident of the locality. I am unable to accept the submission. The District Collector has given reasons for not accepting the report given by the Taluk Supply Officer as per Exhibit-P1. The Taluk Supply Officer had given a different version in his two reports. It is therefore that the District Collector called upon the Revenue Divisional Officer to conduct an independent enquiry and found that the petitioner is not a resident of the locality, but he is a resident of Erattupetta. This is a finding of the fact which has not been demonstrated as perverse.

6. It is then contended that the finding of the District Collector that the building proposed by the petitioner is close to the road and there is no parking facility is not correct. The Collector and the appellate and revisional authority had taken note of the report of the Revenue Divisional Officer and the same has been accepted. No contra materials were placed by the petitioner either before the Commissioner or before the Government. What is involved is an appreciation of rival claims and on a consideration of the materials, the competent authority has chosen to accept the building offered by the 4th respondent. Finding cannot be treated as perverse. There has been an appropriate appreciation of the

materials. No illegality either in the matter of appreciation of the materials or application of law has been made out.

7. In the circumstances, I do not find any grounds to interfere with the orders impugned in the writ petition. I also take note of the submission made by the counsel for the 4th respondent that the functioning of the wholesale shop has already commenced.

For all these reasons the writ petition is found to be bereft of merit and accordingly dismissed.