

**(2008) 07 KAR CK 0002**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 8618 of 2007**

Nagappa

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

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**Date of Decision :** 28-07-2008

**Acts Referred:**

**Citation :** (2011) 2 KarLJ 330 : (2011) 1 KCCR 446

**Hon'ble Judges :** N.K. Patil, J

**Bench :** Single Bench

**Advocate :** Mallikarjun C. Basareddy, for the Appellant; Subhash Mallapur, High Court Govt. Pleader for Respondent-1 to Respondent-3, for the Respondent

**Final Decision :** Dismissed

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## Judgement

N.K. Patil, J.

1. Petitioner, assailing the correctness of the orders dated 29th March, 2007, 11th December, 2006 and 27th June, 2005 passed by Respondents 1, 2 and 3 vide Annexures-C, B and A respectively, has presented the instant writ petition.

2. Facts in brief are that, Petitioner is an authorized dealer for running the fair price depot at Kurukunda Village, Manvi Taluk under the relevant provisions of the Karnataka Essential Commodities (Public Distribution System) Control Order, 1992 (for short "Control Order, 1992"). When things stood thus, it was found that, Petitioner has violated the relevant provision of the Control Order, 1992 by not distributing the food grains to the respective card holders. Therefore, third Respondent initiated the proceedings in view of violation of the relevant provisions of the Control Order, 1992. Petitioner appeared before the third Respondent and submitted his reply wherein he has agreed that, the bag containing 50 Kgs. of rice was issued for the purpose of distribution to the card holders and the same was belonging to the PDS supply bags and also admitted that, the two persons whom he claims to have given 25 Kgs. each as per their entitlements, are not Antyodaya card Holders and they are green card/ yellow

card holders. Further, Petitioner has categorically admitted that, the bag was Government supply bag. Therefore, the third Respondent, being the competent jurisdictional authority, after hearing the Petitioner, has recorded the finding that, Petitioner is found guilty of diverting the food grains from PDS to open market and the statement given by Petitioner clearly proves his culpability and hence, the fair price supply licence was cancelled. Accordingly, the said authority, ordered for confiscation of the kerosene unclaimed by the fair price dealer and cancelled the fair price supply licence for diverting the food grains to open market, by his order dated 27th June, 2005 bearing No. CSD /2/2005-06/9. Assailing the correctness of the order passed by third Respondent, Petitioner has filed an appeal before the second Respondent in proceedings No. CPF Appeal 62/2005-06 and the said appeal had come up for consideration before the Appellate Authority on 11th December, 2006. The Appellate Authority, in turn, after conducting enquiry and after affording opportunity to Petitioner through his Counsel and after going through the written submission filed by Petitioner by way of arguments carefully, has held that, the order passed by third Respondent was just and proper and the said decision is arrived at after conducting thorough enquiry and after affording personal hearing to Petitioner. Accordingly, the second Respondent has dismissed the appeal filed by Petitioner and upheld the order passed by third Respondent. Being further aggrieved by the order passed by second Respondent, Petitioner has filed a revision before the Hon"ble Minister for Food and Civil Supplies. The said revision had come up for consideration before the revisional Court on 29th March, 2007 and the revisional Court, after affording opportunity to Petitioner through his Counsel, and after going through the orders passed by Respondents 2 and 3 and other material available on file including the grounds urged by Petitioner, dismissed the revision filed by Petitioner and upheld the orders passed by both authorities vide Annexures-A and B respectively. Being aggrieved by all the three orders passed by all the three authorities, Petitioner has presented the instant writ petition seeking appropriate reliefs, as stated supra.

3. I have heard learned Counsel appearing for Petitioner and learned Government Pleader appearing for Respondents.

4. After careful perusal of the material available on file, what emerges is that, the Petitioner has obtained authorization for distribution of essential commodities as per the relevant provisions of the "Control Order 1992" and has been running the fair price depot at Kurakunda village, Manvi Taluk, Raichur District. When Petitioner was discharging his duties strictly as per the PDS Rules, on the basis of the complaints received, the Food Sheristedar and the Tahsildar have after conducting enquiry, referred the matter to the third Respondent along with their report regarding violation of the provisions of the Control Order, 1992 by the Petitioner. On the basis of the report submitted by the Food Sheristedar and the jurisdictional Tahsildar, the third Respondent has initiated the proceedings as referred above and after conducting thorough enquiry, after affording reasonable opportunity to Petitioner and after considering the reply filed by Petitioner,

passed the order dated 27th June, 2005 holding Petitioner guilty of diverting the foodgrains to open market and came to the conclusion that, the statement given by Petitioner clearly proves his culpability and accordingly, cancelled the licence. The said order was taken in appeal by Petitioner wherein the Appellate Authority also, after affording substantial opportunity to Petitioner through his Counsel, on the basis of the written arguments filed by Petitioner has dismissed the appeal and upheld the order passed by third Respondent. The said order was taken up in revision by Petitioner before the first Respondent and the first Respondent also, after affording reasonable opportunity to Petitioner and evaluating the orders passed by Respondents 2 and 3, has dismissed the revision confirming the order passed by the second Respondent. All the three authorities have, after critical evaluation of the oral and documentary evidence and other relevant material available on file, after affording reasonable opportunity to Petitioner, including his Counsel, have recorded concurrent finding of fact against the Petitioner. Hence, in view of concurrent finding of fact recorded by all the three authorities, interference by this Court, exercising its extra ordinary jurisdiction is uncalled for. I do not find any merit in the writ petition. Hence, in view of categorical admission by Petitioner himself that, the bag containing 50 Kgs. rice was the bag belonging to the PDS supply bags and the two persons whom he claims to have given 25 Kgs. each as per their entitlements are not Antyodaya card holders and they are green card/yellow card holders and that the bag which was seized was Government supply bag and also in view of the concurrent finding of fact recorded by all the three authorities against the Petitioner, interference by this Court, in all the three impugned orders is uncalled for nor the same is justifiable. Hence, I decline to interfere in the well-considered orders passed by all the three authorities.

5. Having regard to the facts and circumstances of the case, as stated above, the writ petition filed by Petitioner is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.