
(2014) 11 KL CK 0198

In the High Court Of Kerala

Case No : Writ Appeal No. 1572 of 2014 in W.P. (C) 4486/2009

Sunumol Gopalan

APPELLANT

Vs

M. Jayakumar

RESPONDENT

Date of Decision : 07-11-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2014) 11 KL CK 0198

Hon'ble Judges : Ashok Bhushan, J;A.M. Shaffique, J

Bench : Division Bench

Advocate : K. Gopalakrishna Kurup, Sr. Adv., Prakash P. George and Sader E. Reaz, Advocate for the Appellant; Bimal K. Nath, Advocate and Girija Gopal, Government Pleader, Advocate for the Respondent

Judgement

Ashok Bhushan, J.—Heard the learned counsel for the appellants, the learned counsel appearing for the first respondent and the learned Government Pleader.

2. This Writ Appeal has been filed against the judgment dated 25th September 2014 passed by the learned Single Judge in Writ Petition No. 4486 of 2009 which Writ Petition was filed by the first respondent challenging the orders in Exts. P5, P6 and P9 passed by respondents 2 to 4. Petitioner further prayed for a direction to respondents 2 to 4 to allot retail Ration Shops ARD No. 173 of Teekoy Panchayat to the petitioner. The appellant was not a party to the Writ Petition. He has already been granted leave to file the appeal.

3. The brief facts necessary to be noted for deciding the Writ Appeal are that notification for inviting applications for appointment of regular licensee for conducting ration shops was issued on 17th June 2005. The first and seventh respondents were the two applicants. The District Supply Officer directed the shop to be allotted to the first respondent, originally he was the 7th respondent.

4. Petitioner filed an appeal before the District Collector, and the District Collector set aside the order and directed the District Supply Officer to examine all

relevant records. Subsequently, the District Supply Officer, on 13-11-2006, appointed the first respondent as the licensee which order was challenged in appeal before the District Collector who by his order dated 11.09.2007 came to the conclusion that both are not permanent residents of the locality and hence they were not eligible to be appointed. The District Collector directed the District Supply Officer to issue fresh notification for appointing a permanent licensee. The said order was challenged in appeal before the Commissioner of Civil Supplies, which was dismissed. In revision, Government also affirmed the order of the Civil Supplies Commissioner. Challenging the aforesaid order, the above Writ Petition was filed.

5. The learned Single Judge allowed the Writ Petition observing that the mere fact that there were certain contradictory documentary evidence was not enough for a finding that the writ petitioner was not the resident of the locality.

6. Learned counsel for the appellant challenging the order submits that the learned Judge could not have interfered with the finding of facts recorded by the authorities which were based on material and the documents which were submitted before them. It is further submitted that notification inviting applications were issued in 2005 and about 9 years have passed without any settlement which itself require a fresh process permitting all other eligible candidates to participate in the selection. Learned counsel for the first respondent submitted that appellant is not eligible to apply and at her instance the appeal need not be entertained.

7. We have perused the submission of the parties and perused the records. The Collector as well as the appellate authority and the revisional authority all have concurrently found that both the applicants were not the residents of the locality. Residence of locality is an essential condition for grant of license. The authorities who are to examine the eligibility having been satisfied that both the applicants were not eligible, it was not necessary for the learned Single Judge to interfere with the said finding. It is well settled that this Court in exercise of its Jurisdiction under Article 226 of the Constitution of India shall not substitute its opinion to the administrative authorities unless the said order or opinion is based on no evidence or perverse. We are satisfied that the findings recorded by the District Collector and the appellate and revisional authorities can neither be said to be perverse nor based on no evidence. Thus, there is no reason to interfere with the said order.

8. Moreover, as noticed above, the notification was issued in 2005 and till date no settlement of the shop has taken place. Passage of nine years is relevant factor and fully support the view expressed by the authorities. Learned counsel for the appellant expressed his apprehension that although nine years have elapsed and no settlement has taken place fresh advertisement will further take considerable long time. In view of the above, we direct the District Supply Officer to complete the process of fresh settlement of license within three months from the date of date of receipt of a copy of this judgment. We further observe that it shall be

open for the first respondent and 7th respondent to make an application along with relevant certificates and documents if they fulfill the eligibility.

With the above observation, this Writ Appeal is disposed of.

Dated this 7th day of November, 2014.