



IN THE HIGH COURT OF KARNATAKA



KALABURAGI BENCH

DATED THIS THE 14TH DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.202758 OF 2022 (GM-PDS)

BETWEEN:

MAHATHMA GANDHIJI GRAMA HITHA MANDALI
CHIKKAROOGI VILLAGE,
DEVARA HIPPRAGI TALUK,
VIJAYAPUR DISTRICT
REPRESENTED BY ITS CHAIRMAN
GUNDAPPA GOUDA

...PETITIONER

(BY SRI.NAGARAJA N.NAIDU, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
FOOD AND CIVIL SUPPLIES AND
LEGAL METEROLOGY DEPARTMENT
VIKASA SOUDHA
BANGALORE 560001.
2. THE DEPUTY COMMISSIONER
VIJAYAPURA
DIST: VIJAYAPURA-586101
3. THE DEPUTY DIRECTOR FOR
FOOD AND CIVIL SUPPLY
VIJAYAPURA DISTRICT
VIJAYAPURA-586101





4. SHREE AMBA BHAVANI
MAHILA SWA SAHAYA SANGH,
CHIKKARUGI VILLAGE,
DEVAR-HIPPARAGI TALUKA,
DIST: VIJAYAPUR-586215.
REPT. BY ITS SECRETARY
SMT.KAMALABAI W/O SIDDARUD ITI.

...RESPONDENTS

(BY SRI.SHIVAKUMAR R. TENGLI, AGA FOR R1 TO R3;
SRI.SANGANABASAVA B. PATIL, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT NOTIFICATION NO.AHARA/FPS.5:CR 173/2021-22 DATED 29.09.2022 ISSUED BY THE 3RD RESPONDENT UNDER KARNATAKA ESSENTIAL COMMODITIES ACT PDS (CONTROL) ORDER, 2016 IS ARBITRARY, VIOLATIVE OF ART. 14 OF THE CONSTITUTION OF INDIA AND HENCE, ULTRAVIRES THE CONSTITUTION OF INDIA; QUASH THE NOTIFICATION NO. AHARA/FPS.5.CR173/2021-22 DATED 29.09.2022 AT ANNEXURE-B.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. Petitioner is before this Court seeking for the following reliefs:

- i. Declare that Notification No.AHARA/FPS.5.CR 173/2021-22 dated 29.09.2022 issued by the 3rd respondent under Karnataka Essential*



Commodities Act PDS (Control) Order, 2016 is arbitrary, violative of Art. 14 of the Constitution of India and hence, ultravires the Constitution of India.

- ii. Issue a writ of certiorari or other such appropriate writ or orders or directions quashing the notification No.AHARA/FPS:5:CR 173/2021-22 dated 29.09.2022 at Annexure-B.*
- iii. Pass any appropriate writ order or direction as this Hon'ble court deem fit and proper in the facts and circumstances of the case and allow these writ petition in the interest of justice and equity.*

2. The petitioner is the owner of a fair price shop having been granted a licence in the year 1998 to run such a shop in Mahatma Gandhi Grama Hitha Mandali. The petitioner claims that without the petitioner being issued any notice, the respondent No.3 has issued a Notification calling for new fair price depot in the same village vide Annexure-B and if the same were to proceed with, then the number of cardholders attached to the fair price shop of the petitioner would get reduced, thereby affecting the business of the petitioner. It is in that background that the



petitioner is before this Court seeking for the aforesaid reliefs.

3. Learned counsel for the petitioner would submit that in terms of Rule 11 of the Karnataka Essential Commodities Public Distribution System (Control) Order, 2016 (hereinafter referred to as 'Control Order, 2016'), unless a request has been made to the existing authorized fair price shop by the general citizen, no such transfer could be made and no such notification could have been issued and consequently, the ration card holders attached to the fair price shop of the petitioner cannot be transferred to any other third party.
4. His last submission is that if the number of cardholders are reduced, then the operation of the fair price shop would not be feasible.
5. He submits that it is proposed that the number of ration card holders who would be attached to the



petitioner's fair price shop is going to be reduced to 300 and as such, he submits that this is in contravention of sub-rule(2) of Rule 11 of Control Order, 2016. On this ground, he submits that the proposed transfer now to be made in favour of respondent No.4 is not sustainable and the relief sought for are required to be granted.

6. Learned High Court Government Pleader for respondent Nos.1 to 3 submits that a representation had been received from the villagers seeking for establishment of one more fair price shop. The number of cardholders attached to the shop of the petitioner according to her is more than 1200 and as such, a minimum of 500 cardholders will continue to remain attached to the fair price shop of the petitioner in compliance with sub-rule (2) of Rule 11 of the Control Order, 2016 and therefore, there would be no adverse impact on the operation of the petitioner.



7. Heard learned counsel for the petitioner and learned High Court Government Pleader for the respondent Nos.1 to3 and perused the papers.
8. Rule 11 of the Control Order, 2016 is reproduced hereunder for easy reference:

11. Assignment of Ration Card: (1) *After sanctioning an authorization to run a fair price depot, the Authorized Authority shall assign to the fair price depot a certain number of ration cards belonging to persons residing near the fair price depot.*

(2) *The number of ration cards assigned to a fair price depot under sub-clause (1) shall not be less than 500 for a fair price depot in a rural area and not less than 800 for a fair price depot in an urban area:*

Provided that the Authorized Authority may, for reasons to be recorded in writing, relax the limit upto 100 cards for a fair price depot in a rural area if the fair price depot is to serve the needs of an isolated settlement or layout where the number of ration cards is below the limit prescribed viz., special areas like tribal hadis/tandas/gollarahatti etc.

(3) *The Authorized Authority may, if he considers it necessary, transfer ration cards from one fair price shop to another:*

a) *on the request of ration cardholders.*



b) as a result of reorganization of the jurisdictional area of the shop with permission of commissioner as a part of well defined parameters.

c) if the number of ration cards in a shop, fall below 75% of the number specified under Clause 11(2), thereby making the shop as economically unviable.

9. The object and purpose of establishing a fair price shop is to enable the citizens of the country to have easy access to fair price shops, more so, when the ration card holders belong to the impoverished class of society and many of them being below poverty line. It is, therefore, in their interest that the fair price shops are available with easy access as close to their residences as possible.

10. The purpose and purport of the Control Order, 2016 is not to encourage monopoly by way of issuance of authorisation to one particular fair price shop, but to see that distribution of all the articles are made to all the concerned citizens in a speedy and cheaper manner.



11. The contention of the counsel for the petitioner is that 1061 cardholders are attached to the fair price shop of the petitioner. The contention of learned High Court Government Pleader being contra that there are 1200 cardholders attached to the shop of the petitioner. In terms of sub-rule (2) of Rule 11 of the Control Order, 2016, the minimum guaranteed number of cardholders in a rural area being 500. Even accepting the submission of the counsel for the petitioner, the number of cards attached to the petitioner's fair price shop is double the minimum guaranteed number. Thus, I am of the opinion that there cannot be a monopoly or a vested right in favour of the petitioner to continue or retain all the cardholders in the petitioner's fair price shop. The Period of authorisation also being fixed, once the period expires, it is for the authorities to issue fresh notification inviting applications and allot the licences as per the applicable law, thus even on this account



there is no vested right or interest created in favour of the petitioner to continue retention of all the card holders in the fair price shop being run by him.

12. The respondent authorities are well within their rights in terms of sub-rule (2) of Rule 11 of the Control Order, 2016 to establish further fair price shops so long as the minimum numbers of 500 cards are attached to each such shop in a rural area.

13. In that view of the matter, placing on record the submission of learned High Court Government Pleader that 500 cards as guaranteed under sub-rule (2) of Rule 11 of the Control Order, 2016 would continue to be with that of the petitioner and the same would not be disturbed, the petition stands ***dismissed.***

Sd/-
(SURAJ GOVINDARAJ)
JUDGE