

Puran Mal Agarwal Vs. State of West Bengal and ors.

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Court : Kolkata

Decided On : May-13-2014

Judge : DR. SAMBUDDHA CHAKRABARTI

Appellant : Puran Mal Agarwal

Respondent : State of West Bengal and ors.

Judgement :

IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction Original Side Present : The Honble Justice Dr.

Sambuddha Chakrabarti May 13, 2014 WP512of 2013 Puran Mal Agarwal versus State of West Bengal & ORS.MRS.Nibedita Pal, Advocate with Mr.Ramesh Kumar Dhara, Advocate for the petitioner MRS.Chama Mukherjee, Advocate with Md.T.M.Siddiqui, Advocate for the State The Court :- The order impugned in the present writ petition was passed by the Joint Director of Rationing, Kolkata (North) i.e.the respondent no.3 herein on May 17, 2013.

The grievance of the petitioner is that he was the owner of Fair Price Shop No.2851 located in Bowbazar Sub-area.

At one point of time about 4700 ration cards were tagged with the shop but at present he has only 1142 cards.

According to him this is not economically viable for him to run the ration shop with only 1142 cards.

Therefore, he wanted about 1000 more cards, so that he can really run the fair price shop.

The petitioner made a representation for enhancing the ration card holders tagged with his shop and since it is being considered he filed a writ petition earlier which was disposed of by an order dated March 21, 2013 by a learned single Judge directing the concerned authority to take a decision within the period fixed by the Court.

Pursuant to the same the order impugned was passed.

The authority concerned had given the petitioner as well as the Rationing Officer an opportunity of being heard and to represent their cases.

He agreed with the submission of the petitioner that with only 1142 ration cards no fair price shop can be financially viable.

He, however, considered the application filed by the petitioner to the effect that a large number of ration cards were missing and for that he had lodged a complaint with the police station but they were not recovered.

The respondent no.3 disposed of the matter by holding that those cards could not be rescued for some reasons or other and it can be easily presumed that if those cards can be made alive either by issuing duplicate ration cards against the lost ones or by finding the lost ration cards after thorough searching the financial survival of the fair price shop can be restored and the Rationing Officer, Bowbazar was directed to arrange for revival of those ration cards on production of valid documents.

MRS.Pal, the learned Advocate for the petitioner has assailed this order primarily on the ground that most of the card holders either left the area or are not willing to revive the cards and to approach the authority for the same and as such this order even if it authentically sub-serve the purpose of the petitioner that would be an empty consolation in his favour.

MRS.Mukherjee, the learned Advocate for the State respondent apparently has no quarrel with the procedure suggested by MRS.Pal and the State respondent in their affidavit has specifically stated that the persons whose ration cards are lost are required to apply afresh for duplicate ration cards before the concerned authority.

She further submits that initially the petitioner had 4700 cards tagged with the shop when nothing is happened in other shops.

There must be serious allegations against the petitioner as a result of which ration card holders are not willing to approach the petitioners ration shop.

The submission of the respondent has sufficient force inasmuch as in the over all prevalent economic situation is unlikely that the ration card holders will not approach the ration shop when ration card holders are tagged with other shops regularly visit their respective fair price shops.

In fact the order complained of makes reference to some negative side of dealing of the petitioner with the rationees.

As a result the card holders felt frustrated and have either left the area or stopped drawing ration.

As such there is obviously a complaint against the petitioner and this accompanied by the withdrawal of more than 3000 card holders strengthen the submission of the respondent.

I find no reason why the ration cards tagged with other fair price shops shall be directed to be tagged with the petitioner for no fault on the part of that shop owners It is a common knowledge and the Court may take judicial note of it that a rationee does not ordinarily stop visiting a fair price shop unless there are valid reasons therefor.

Therefore the suggestion given by the respondent no.3 in the order impugned appears to be sufficiently reasonable and find no infirmity in the order and no interference is called for.

MRS.Pal, the learned Advocate for the petitioner has referred to an undated order passed by a Bench in AST No.17 of 2012 where a Division Bench disposed of the appeal by directing the authority to take into consideration the subsequent event.

If any subsequent event has disturbed the equilibrium, the authority shall also take into consideration such subsequent event.

No principle of law has been laid down in this short order.

The only thing that MRS.Pal sought to rely upon is to the effect of disturbance of equilibrium which obviously does not apply to the present state of facts.

Nobody disturbed any equilibrium by any subsequent event.

The petitioner was after all given 4700 cards and without anything more about the facts of that case in AST17of 2012 particularly what the subsequent facts were or how the equilibrium was disturbed the order cannot be squarely applied to the fact.

The petitioner has also relied on the case of Manakamana Flour Mills PVT.LTD.versus State of West Bengal & ORS.wherein the Division Bench by an order dated July 25, 2007 had inter alia directed the concerned authority to release to the petitioner a certain amount of wheat which would fall to its share on the basis of equitable distribution among all the parties.

The subject matter of this order was the release of ration commodity and not the distribution of the ration cards and the question that cropped up for consideration is that the appellant is entitled to equitable wheat to all rationees .

This order cannot come to the aid of the petitioners case.

I find no merit in the order impugned .

The writ petition is dismissed.

There shall however be no order as to costs.

The petitioner expressed that the direction to produce the documents upon the Rationing Officer which is not a feasible one inasmuch as he has no document relating to rationees whose cards have been lost from his shop.

The petitioner is directed to produce the register to the Rationing Officer and if the same is produced the Rationing Officer shall take appropriate steps for the revival of the cards in accordance with law.

The Rationing Officer shall take necessary steps for the revival of the cards in accordance with law within twelve weeks from the date of communication of this order.

(Dr.

Sambuddha Chakrabarti, J.) ANC.

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