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Court : Karnataka Dharwad

Decided On : Mar-15-2017

Judge : L. Narayana Swamy

Appeal No. : Writ Petition No. 101666 of 2016(GM-EC)

Appellant : Ramangouda

Respondent : The Commissioner-Cum-Appellate Authority For Food And Civil Supplies, Cunningham and Others

Judgement :

L. Narayana Swamy, J.

1. Learned Counsel for the petitioner submits that the petitioner is running a Fair Price Shop at Hirehadagali Village, Ballari Taluk since 1993, for which licence was issued by the Government. Without having committed any illegality, a case has been registered in Crime No. 9 of 2014 by Moka Police for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955. In view of the registration of the case against the petitioner, the respondents have cancelled the licence without providing any opportunity to him. He further submits that in the similar case, one Iramma was illegally transporting 3.5 quintals of rice in bullock cart and case was registered against the said person, who is the owner of the Fair

Price Shop and initially licence was suspended by the second respondent and thereafter she was warned and also levied fine of Rs. 25,000/-, whereas in the present case also criminal case has been registered. Hence, the action of the respondents is arbitrary and prays this Court that the petitioner also should have been levied fine instead of canceling his licence.

2. Learned Additional Government Advocate submits that the respondents have invoked Sections 3 and 7 of the Essential Commodities Act, since the petitioner was transporting 400 liters of kerosene illegally. Hence, she prays this Court to dismiss this writ petition

3. It is the duty of the State to supply the food grains and essential commodities to the public on subsidised rates for below the poverty line people and in the rural places, who are not in a position to take the essential commodities and food grains at market with higher price, without which they cannot complete their family needs and expenses. So it is the duty of the respondent-Government to supply the food grains and essential commodities to the persons who have been issued licence to run the Fair Price Depot on behalf of the Government to issue all the commodities to the poor people and also it is the duty of the Government to see any illegality committed by such persons in the process. Accordingly, the rules and regulations are made for the purpose of supplying food grains under the provisions of the Act. The licence was issued to distribute the same in accordance with the directions issued by the Government from time to time. Failure on the part of the licensee, the public at large will lose their right. The Government put the licensee on job and the licensee has to act on behalf of the Government according to the directions of the respondent-Government and also as per the rules and regulations. When the licensee commits an illegal activity by transporting or distributing the food grains, which is contrary to law, then the State Government is to decide whether the licence issued to the licensee should cancel or continue? The petitioner-licensee does not have any fundamental right to claim continuation of his licence and it is for the State Government to decide whether the licence has to be continued/cancelled or not. When the licensee found illegally distributing the food grains according to the rules and regulations, there is no right in continuing his licence for running Fair Price Depot.

4. In the present case, a criminal case has been registered alleging that the petitioner has committed an offence under Sections 3 and 7 of the Act i.e., illegal transportation of 400 liters of kerosene, which is preferably meant for public distribution, which has been seized. Complainant is none other than the Government. The Government is the Competent Authority to issue or cancel the licence. The licensee was acted contrary to the provisions of the Act. Accordingly, without waiting the result of the criminal case, the Government has power to cancel the same. In this circumstance, I do not find any justifiable ground to interfere with the order passed by the respondents.

5. At this juncture, learned Counsel for the petitioner submits that in a similar case the Government has levied fine of Rs. 25,000/- and has taken undertaking that the same will not be committed in future. The error committed by the respondents in levying the fine of Rs. 25,000/- cannot come under the purview of Article 14 of the Constitution of India, which is contrary to law. In this circumstance, this petition is disposed of. Liberty is reserved to the petitioner, if he is acquitted from the criminal case to make an application requesting for continuation of his licence. If such application is made, it is for the respondents to consider and pass appropriate orders in accordance with law.

With these observations, the writ petition stands disposed of.

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