

K.Pameela vs the Controller of Rationing

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Court : Kerala

Decided On : Oct-29-2021

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/17223/2013

Appellant : K.Pameela

Respondent : The Controller of Rationing

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 29TH DAY OF OCTOBER 2021 / 7TH KARTHIKA, 1943
WP(C) NO. 17223 OF 2013 PETITIONER: K.PAMEELA W/O. LATE A.
BALAGOPAL, AGED 62 YEARS, AMBAL NIVAS, PALACE CORNER,
KOLLENGODE P.O, PALAKKAD. BY ADVS. SMT.SUMATHY
DANDAPANI (SR.) SRI.MILLU DANDAPANI SRI.VISHNU
RESPONDENTS: 1 THE CONTROLLER OF RATIONING,
THIRUVANANTHAPURAM - 695 001 2 THE TALUK SUPPLY OFFICER
MANNARKKAD, PALAKKAD DISTRICT 678 582 3 THE DEPUTY
TAHSILDAR REVENUE RECOVERY, CHITTUR TALUK, PALAKKAD
DISTRICT - 678 101. 4 ADDL.4. THE STATE OF KERALA,

REPRESENTED BY THE SECRETARY, CIVIL SUPPLIES
DEPARTMENT,

THIRUVANANTHAPURAM (IS SUOMOTU IMPLEADED AS PER ORDER

DATED 29.10.2021 IN W.P.(C)NO.17223 OF 2013) SMT.RASHMI.K.M, SR.GP
THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29.10.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:
P.V.KUNHIKRISHNAN, J ----- W.P.(C)No.17223 of 2013
----- Dated this the 29th day of October 2021

JUDGMENT

The petitioner is the wife of late Sri.A.Balagopal, who was the authorised
wholesale Ration Distributor with respect of AWD II and III in Mannarkkad Taluk.
The dealership was granted in favour of her husband as per licence No.16/83-84

and Ext.P1 is the licence.

The licence was rene

distributors and card holders preferred to purchase

the articles from the open market ins

petitioner that the husband of the petitioner after getting permission from the then
Taluk Supply Officer, sold the ration articles earmarked to the

APL(Above Poverty Line) Scheme to the

is submitted in the writ petition that, due to the above shifting, the petitioner's
husband was entitled to get an adjustment of Rs.3,41,061.90. The petitioner's
husband died on 8.6.2001. On the same date, when the Taluk spply officer visited
the Ration shop, in the visit book, the then Taluk Supply Officer had made the
endorsement of the above shifting that was done between the BPL and

APL Scheme.

Ext.P2 is the relevant page of the visit b

petitioner's husband was alive, ie., on 14.11.2000 itself, he had requested the 1st respondent by

submitting a representation for issuing an order

for transferring the above quantities of articles which were held in the godown for shifting it from APL to BPL. Ext.P3 is the representation. It is the further case of the petitioner that, as per letter dated 29.7.2005, the then Supply Officer, Mannarkkad, showing the details of the shifting of articles and recommended to give deduction amount of Rs.3,41,117/- in favour of the petitioner. After adjusting this amount, according to the petitioner, the actual amount due to be collected

from the petitioner was also request

16.3.2006 (Ext.P5), the Taluk Supply Officer had addressed the District Supply Officer recommending the adjustment of Rs.3,41,117/- from the total amount which has to be remitted by him towards the stock rice. Ext.P6 is the letter. It is the further case of the petitioner that the successor of the earlier Taluk Supply Officer without following the earlier proceedings, after referring a letter of the Civil Supplies Director dated

30.5.2012, intimated that the petitioner is not entitled to get the adjustment recommended by the earlier Taluk Supply Officer, since shifting was done without getting the prior permission from the Taluk Supply Officer. Hence, the petitioner was directed to remit Rs.3,41,117/- and also cost of Rs.4,802/- decreed in a suit which was instituted by the petitioner claiming differential cost of rice and wheat filed before the Sub court. That cost was also directed to be paid along with the

amount of Rs.3,41,117/- as per Ext.P7. On rece

Civil Supplies as evident by Ext.P8 representation. Subsequently, Ext.P9 revenue recovery proceedings were initiated. In such circumstances, this writ petition is filed with following prayers. (i) call for the records leading to Exhibit P7 and P9 and issue a writ of certiorari or any other appropriate writ, order or direction quashing the same,

(ii) pass an order declaring that the petitioner is not bound to make any payment as claimed in Exhibits P7 and P9,

(iii) pass such other appropriate order or direction which this Honourable Court may deem fit and proper in the facts and circumstances of the case, and

(iv) award costs.

2. Heard the learned senior counsel for the petitioner, Adv.Sumathi Dandapani as instructed by Adv.Vishnu and the learned Government Pleader.

3. When this writ petition came up for consideration, the learned senior counsel submitted that the amount covered by Ext.R2(a) judgment and decree is already paid by the petitioner to the

respondents on 27.09.2013. The learned Government Pleader also conceded that, if that is the case what remains is only the interest and cost portion. It is an admitted fact that the husband of the petitioner was conducting the ARD. It is the definite case of the petitioner that the husband of the petitioner approached the authorities for getting permission to sell the rice and wheat from APL to BPL. I perused Exts.P4, P5 and P6, in which it is clear that the Taluk Supply Officer and other officials recommended to accept the request of the husband of the petitioner to adjust the amount from the amount payable by the petitioner's husband. In such circumstances, according to me, the direction to pay interest to the amount which already paid will be an injustice to the wife of the deceased A.Balagopal. Admittedly there is no misappropriation or fraud alleged. The ration article supplied for the distribution to APL was

sold to BPL card holders and request

interest in such case, that also to the widow of the former ARD will be an injustice. According to me, this is a matter to be looked into by the additional 4th respondent. In the facts and circumstances of the case, the revenue recovery proceedings initiated against the petitioner can be quashed and the question of payment of interest by the petitioner can be decided by the Government afresh. As I observed earlier, the Government should take this matter as a special case and

will do the needful in accordance to law to see that the payment of interest is avoided in this particular case. Therefore, this writ petition is allowed in the following manner. i) Exts.P7 and P9 are quashed. ii) The additional 4th respondent is directed to consider the waiver of payment of interest by the petitioner in the light of the fact that the admitted amount is already paid in the year 2013 and the petitioner is the wife of the deceased ARD. Sd/- P.V.KUNHIKRISHNAN JUDGE DM APPENDIX OF WP(C) 17223/2013 PETITIONER EXHIBITS: EXT.P1 PHOTOCOPY OF LICENCE NUMBER 16/83- 84,MANNARKKAD UNDER KERALA FOODG RAINS DEALERS' LICENSING ORDER, 1967, ISSUED BY THE 2ND RESPONDENT TO THE PETITIOEN'S HUSBAND , A. BALAGOPAL

EXT.P2 PHOTOCOPY OF RELEVANT PAGE OF THE VISIT

REFEREED TO IN THE WIRT PETITION EXT.P3 PHOTOCOPY OF THE REPRENETATION DTD HUSBAND BEFORE THE IST RESPONDENT EXT.P4 PHOTOCOPY OF THE LETTER NO. D 259/04 DTD DIST SUPPLY OFFICER, PALAKKAD EXT.P5 PHOTOCOPY OF THE LETTER NO. D 264/05 DTD DIST SUPPLY OFFICER, PALAKKAD EXT.P6 PHOTOCOPY OF LETTER DTD 10/8/2009 OF THE 2ND RESPONDENT TO SHRI SUKUMARAN, PALAKKAD EXT.P7 PHOTOCOPY OF THE NONTICE NO.D 259/2005 DTD 11/9/2012 OF THE 2ND RESPONDENT TO THE PETITIONER EXT.P8 PHOTOCOPY OF REPRESENTATION DTD RESPONDENT EXT.P9 PHOTOCOPY OF THE DEMAND NOTICE VIDE NO 3RD RESPONDENT TO THE PETITIONER RESPONDENTS EXHIBITS: ANNEXURE R2(A) TRUE COPY OF THE JUDGMENT DATED 31.03.2005 ANNEXURE R2(B) TRUE COPY OF THE REQUEST DATED 18.06.2007 ANNEXURE R2(C) TRUE COPY OF THE NOTICE DATED 19.05.2010 ANNEXURE R2(D) TRUE COPY OF THE REPLY DATED 25.05.2010 //TRUE COPY// PA TO JUDGE

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