

IN THE HIGH COURT OF KARNATAKA  
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 29<sup>TH</sup> DAY OF FEBRUARY 2012

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

W.P.No. 60324/2012 (GM-PDS)

BETWEEN:

Maruthi Local Committee,  
Represented by its President,  
Sri Dhyamangowda Mahalingowda  
Patil, Aged about 39 years,  
Gondhi village, Hangal Taluk,  
Haveri District.

..Petitioner

(By Sri Sunil Desai for M/s Goulay Associates, Adv.)

AND:

1. State of Karnataka,  
Represented by its Secretary,  
Department of Food and Civil  
Supplies, M.S. Building,  
Bangalore-560 001.
2. The Commissioner & Director,  
Food and Civil Supplies,  
Cunningham Road,  
Bangalore.
3. The Deputy Commissioner,  
Haveri District, Haveri.
4. The Tashildar,  
Hangal Taluk,  
Hangal.

5. Sri Sidhalingaya Gadigaya Hiremath,  
Age: Major, R/o Hirekounshi,  
Tq. Hangal, Dist: Haveri.

..Respondents

(By Smt. K. Vidyavati, AGA for R-1 to R-4;  
Sri A.S.Patil, Adv. for R-5)

This writ petition is filed under Articles 226 & 227 of the Constitution of India, praying to quash the impugned order dated 05.01.2012 of the respondent No.4 vide Annexure-L and the order dated 05.12.2011 passed by respondent No.2 vide Annexure-M.

This writ petition coming on for orders this day, the Court made the following:-

### ORDER

Heard the learned counsel for the parties.

2. This writ petition arises in a short compass. The impugned order passed on 05.12.2011 by the Commissioner for Food and Civil Supplies is an interim order passed vacating the order of stay granted in the proceedings before it.


3. The grievance of the petitioner who is the appellant before the Commissioner is that, he had obtained an ex-parte interim order after filing the appeal and the matter stood adjourned to

4-

19.11.2011. On that day, the 5<sup>th</sup> respondent appeared and filed an application for vacating the interim order. The case was adjourned to 07.01.2012 at the request of the appellant/writ petitioner. However, on 05.12.2011, the impugned order is passed vacating the stay order granted without hearing the petitioner.

4. The fact that the matter was posted to 07.01.2012 and without there being any advancement application duly served on the petitioner, the case was taken up on 05.12.2011 and the impugned order has been passed is indisputable. Therefore, it has to be concluded that the procedure adopted by the Commissioner was erroneous and opposed to the principles of natural justice.

5. Petitioner is right and justified in contending that he was not heard prior to passing of the impugned order. Hence, on this short ground the petitioner is entitled to succeed.



6. Hence, this writ petition is allowed. The impugned order at Annexure-M is set-aside.

7. It is now submitted at the bar that the case has been already heard and reserved for orders on the main matter by the Commissioner on 07.01.2012. If that is so, the Commissioner is directed to pronounce the order on merits at the earliest, at any rate, by 15.03.2012. The parties are directed to place a copy of this order before the Commissioner along with a memo to enable him to comply with the same.

Since the impugned order passed by the Commissioner vacating the interim order is set-aside, question of granting further relief does not arise.

Sd/-  
JUDGE

mkc