

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30<sup>TH</sup> DAY OF NOVEMBER, 2018

BEFORE

THE HON' BLE MR. JUSTICE B. VEERAPPA

WRIT PETITION No.3125/2018 (GM-PDS)

BETWEEN:

S. SAVITHA,  
AGED ABOUT 32 YEARS,  
W/O BASAVARAJU,  
RESIDING AT NO.16, 2<sup>ND</sup> CROSS,  
SHAMANA GARDAN,  
MYSORE ROAD,  
BANGALORE-560026.

... PETITIONER

(BY SRI H. C. SHIVARAMU, ADVOCATE)

AND:

1. THE PRINCIPAL SECRETARY  
GOVERNMENT OF KARNATAKA,  
DEPARTMENT OF FOOD AND CIVIL SUPPLIES,  
VIKAS SOUDHA,  
BANGALORE-560001.
2. THE ADDITIONAL DIRECTOR OF  
FOOD AND CIVIL SUPPLIES,  
II FLOOR, MARKETING FEDERATION BUILDING,  
CUNNINGHAM ROAD,  
BANGALORE-560052
3. THE DEPUTY DIRECTOR  
FOOD AND CIVIL SUPPLIES DEPARTMENT,  
BANGALORE-560052.

4. B.M.GOPALAKRISHNA STORES  
NO.18, 6<sup>TH</sup> CROSS,  
SHAMANA GARDAN,  
MYSORE ROAD,  
BANGALORE-560026  
REP BY ITS OWNER MANJUNATHA,  
S/O B.M. GOPALAKRISHNA.

... RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA FOR R1 TO R3;  
VIDE ORDER DATED 05.06.2018  
PETITION AGAINST R-4 IS DISMISSED)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE COMMUNICATION / RECOMMENDATION DATED 7.10.2016 ISSUED BY THE R-3 TO THE R-2 AT ANNEXURE-B AND TO QUASH THE OFFICIAL MEMORANDUM DATED 19.10.2016 ISSUED BY THE R-2 AT ANNEXURE-C.

THIS WRIT PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

### ORDER

The petitioner filed the present writ petition for a writ of certiorari to quash the communication/ recommendation dated 07.10.2016 issued by the third respondent to the second respondent vide Annexure-B and to quash the official memorandum dated 19.10.2016 issued by the second respondent vide

Annexure-C, and for a writ of mandamus to the respondent Nos.2 and 3 to maintain minimum of 500 ration cards in the petitioner shop as required under clause 11(2) of The Karnataka Essential Commodities (Public Distribution System) Control Order, 2016.

2. It is the case of the petitioner that the concerned authority granted authorization in favour of the petitioner to distribute the essential commodities to the card holders by allotting 153 ration cards on 31.01.2006. The third respondent, without holding any enquiry and without there being any violation of terms and conditions of the authorization, recommended for cancellation of authorization on the ground that the petitioner is having only 153 ration cards which is not economically viable. Therefore, sought for cancellation of the authorization. Accordingly, the second respondent issued the official memorandum dated 19.10.2016 as per Annexure-C merging the cards of the

petitioner to the shop of the fourth respondent. Therefore, petitioner is before this Court for the relief sought for.

3. I have heard the learned counsel for the parties to the lis.

4. Sri H.C.Shivaramu, learned counsel for the petitioner, reiterating the grounds urged in the petition, contended that the impugned recommendation of the second respondent and the impugned order passed by the third respondent is without notice and without giving an opportunity of being heard to the petitioner and the same is in utter violation of the principles of natural justice and has infringed the petitioner's right guaranteed under Article 19(1)(g) of the Constitution of India. Therefore, sought to allow the writ petition.

5. Per contra, Mrs.Niloufer Akbar, learned Addl. Government Advocate for respondent Nos.1 to 3 sought

to justify the impugned order and contended that, only after investigation, the Deputy Director of Food and Civil Supplies has recommended to the second respondent to pass the impugned order and therefore, sought to dismiss the writ petition.

6. Having heard the learned counsel for the parties, it is undisputed fact that the jurisdictional authority has granted authorization in favour of the petitioner on 31.01.2006 to distribute the essential commodities by allotting 153 ration cards. If the 153 cards allotted in favour of the petitioner are not viable, the respondents ought to have issued notice specifying the reasons for withdrawing and should have given an opportunity of being heard to the petitioner. The same has not been done. On the contrary, the respondents have unilaterally passed the impugned order, which is in utter violation of Articles 19(1)(g) and 21 of the Constitution of India. It is well settled that once

authorization is granted, right accrues to the petitioner. If it is to be withdrawn, same has to be done in accordance with law. But, in the present case, the respondents have proceeded to pass orders unilaterally without issuing notice to the petitioner.

7. For the reasons stated above, writ petition is **allowed**. The impugned orders passed by respondent Nos.2 and vide Annexures-B and C are hereby quashed. The matter is remanded to the second respondent for fresh consideration, after issuing notice and an opportunity of hearing to the petitioner and the fourth respondent, and pass orders strictly in accordance with law, within a period of eight weeks.

Ordered accordingly.

**Sd/-  
JUDGE**

kcm