



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 30TH DAY OF JUNE, 2025
BEFORE
THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV
WRIT PETITION NO. 481 OF 2025 (GM-PDS)

BETWEEN:

1. SMT. JAYAMMA
W/O LATE SOMANANJEGOWDA,
AGED ABOUT 57 YEARS,
R/O SHETTIGERE VILLAGE,
KOTHAGERE HOBLI
KUNIGAL TALUK,
TUMKURU DISTRICT.

...PETITIONER

(BY SRI. K R RAMESH., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF FOOD AND CIVIL SUPPLIES,
VIKASA SOUDHA, VIDHANA VEEDI
BENGALURU - 560001.
2. THE JOINT DIRECTOR
DEPARTMENT OF FOOD AND CIVIL SUPPLIES,
AND CONSUMER AFFAIRS,
NO.205, 2ND FLOOR,
MINI VIDHANA SOUDHA
TUMAKURU - 572101.
3. THE TAHASILDAR
KUNIGAL TALUK,
TUMAKURU DISTRICT
TUMAKURU - 572130.

...RESPONDENTS

(BY SRI. K P YASHODHA, AGA)





THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ENDORSEMENT/ORDER BEARING NO. F.S.D/F.P.D/C.R/100/1994-95 DTD. 21.11.2024 ISSUED BY THE R-2 AT ANNEX-A AND THEREBY DIRECT THE RESPONDENT AUTHORITIES TO ISSUE AUTHORIZATION TO RUN FPD AT SHETTIGERE VILLAGE, KOTHAGERE HOBLI, KUNIGAL TALUK, TUMAKURU DISTRICT IN FAVOUR OF THE PETITIONER ON COMPASSIONATE GROUNDS ON ACCOUNT OF THE DEATH OF HER HUSBAND SOMANANJEGOWDA WHO WAS RUNNING THE FPD.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

Learned Additional Government Advocate accepts notice for respondents.

2. The petitioner has sought for issuance of writ of certiorari to set aside the impugned endorsement dated 21.11.2024 at Annexure-'A' whereby the application of the wife of holder of authorisation for transfer on compassionate grounds has been rejected on the ground that the petitioner does not possess educational qualification of 10th Standard as is required under the Karnataka Essential Commodities Public Distribution



System (Control) Order, 2016 and as amended on 25.05.2017, 05.06.2017 and 16.01.2021 to Clause-13.

3. It is case of the petitioner that the petitioner's husband was running a Fair Price Depot for the past 38 years. It is submitted that imposition of condition has been held to be illegal, as the conditions regarding age or educational qualification are conditions that have come into force by virtue of amendment to the Karnataka Essential Commodities Public Distribution System (Control) Order, 2016 subsequent to issuance of authorisation and cannot be stated to have retrospective effect.

4. Perused the order dated 16.12.2022 passed by the Co-ordinate Bench in W.P.No.27403/2017.

5. In terms of the order dated 16.12.2022 passed in W.P.No.27403/2017, the Co-ordinate Bench has observed at para-2 as follows:-

"2. Learned Counsel for the petitioner submits that the Deputy Commissioner has declined to allow the application filed at the hands of the petitioner



*seeking transfer of authorization hitherto held by her husband Sri P.Srinivas till his death, on the ground that the application has been filed beyond the prescribed period of 90 days and moreover, the petitioner has not passed S.S.L.C. examination and therefore, the authorization cannot be transferred. Learned Counsel submits that this Court has considered similar circumstances in various cases including **Sri Mallikarjun Ashok Matti Vs. State of Karnataka and Others** in W.P.No.105404/2018 dated 04.12.2018, decided at Dharwad Bench. Learned Counsel has drawn the attention of this Court to paragraph-6 of the order wherein the relevant Clause-13 of the Karnataka Essential Commodities Public Distribution System (Control) Order, 2016 was considered by this Court having regard to the earlier 4 decisions rendered by the co-ordinate Benches in W.P.No.8586/2006 dated 21.11.2008; W.P.No.55097/2017 dated 11.12.2017; W.P.No.204335/2014 dated 17.11.2017 etc and held that prescription of age and minimum educational qualification cannot be made applicable to cases where the authorization is sought to be transferred on compassionate grounds and therefore, directed the authorities to consider their applications without insisting for minimum educational qualification and the age limit prescribed in the proviso and it was also held that the technical ground for making the*



application within a period of 90 days also should not be made applicable in such cases or should be considered with leniency. When such benefit has been given to many other persons at the hands of this Court, the same cannot be denied to the petitioner.

6. In light of the above, it is clear that insistence on minimum educational qualification does not arise, as amendment made to Clause-13 is subsequent and cannot be held to be having retrospective effect, as authorisation to the petitioner has been granted at an earlier point of time.

7. Accordingly, the endorsement at Annexure-'A' dated 21.11.2024 is set aside. The respondent No.2 is directed to pass necessary orders regarding transfer of authorisation within a period of four weeks from the date of receipt of certified copy of the order.

8. Further, the respondent No.2 is directed to issue authorization in light of the observations made above, as per law, without seeking for permission, approval, etc., which



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cannot be traced to the Food Control Order, and necessary decision to be taken within a period of six weeks from today.

**Sd/-
(S SUNIL DUTT YADAV)
JUDGE**

VGR