



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 23RD DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.105125 OF 2022 (GM-PDS)

BETWEEN:

SHRI ARANYA SIDDESHWARA PRATHAMIKA
KRUSHI PATTINA SAHAKARI SANGHA LIMITED
YELPARATI, TQ: RAIBAG, DIST: BELAGAVI,
BY ITS PRESIDENT RAJU ICHALKARANGI-591317

...PETITIONER

(BY SRI SADIQ N.GOODWALA, ADV. AND
SRI S.B.PATIL, ADV.)

AND:

1. THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
FOOD AND CIVIL SUPPLIES DEPARTMENT,
VASANTH NAGAR, BENGALURU-01.
PIN-560052.
2. THE COMMISSIONER
FOOD, CIVIL & CONSUMER AFFAIRS DEPARTMENT,
CUNNINGHAM ROAD, VASANTH NAGAR ,
BENGALURU-560052.
3. THE DEPUTY COMMISSIONER
BELAGAVI, DIST: BELAGAVI-590001.
4. THE JOINT DIRECTOR
FOOD, CIVIL AND CONSUMER AFFAIRS DEPARTMENT,
BELAGAVI, DIST: BELAGAVI.
5. THE TAHASILDAR
RAIBAG, DIST: BELAGAVI-591317.





6. SRI BASAVESHWAR PRATHAMIKA
KRUSHI PATTINA SAHAKARI SANGHA LIMITED
YELPARATI, TQ: RAIBAG,
DIST: BELAGAVI-591317.
BY ITS SECRETARY

7. SRI MALKARI SIDDESHWAR
KRUSHI PATTINA SAHAKARI SANGHA LIMITED
YELPARATI, TQ: RAIBAG,
DIST: BELAGAVI-591317.
BY ITS SECRETARY

...RESPONDENTS

(BY SRI PRASHANT V. MOGALI, HCGP FOR R1 TO 5)
SRI RAJASHEKHAR GUNJALLI, ADV.
FOR SRI SANTOSH BIRANGI FOR R6)
SRI SHIVARAJ P. MUDHOL, ADV. FOR R7)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING THIS COURT TO A WRIT IN A NATURE OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 27.10.2022 PASSED BY RESPONDENT NO.4 IN NO.AAPUVI/ADAH/AYABAAM/VINIDHI-30/2022-23 VIDE ANNEXURE-C ; A WRIT IN NATURE OF MANDAMUS DIRECTING THE RESPONDENTS NO.4 TO STRICTLY FOLLOW RULE 11 OF KARNATAKA FOOD CONTROL ORDER, 2016 BEFORE ALLOTING NEW CARDS IN FAVOUR OF RESPONDENT NO.6 AND 7.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The captioned writ petition is filed by existing fair price depot at Yelparati village of Raibhag taluk feeling aggrieved by the impugned order dated 27.10.2022, wherein respondent No.4 pursuant to notification has



sanctioned authorization to respondent Nos.6 & 7 to run new fair price depots.

2. The grievance of the petitioner is that the proposed authorization to run fair price depots by respondent Nos.6 & 7 contravenes sub clause (2) of clause 11 of the Karnataka Essential Commodities (Public Distribution System) Control Order, 2016 ("Control Order 2016" for short).

3. Therefore, feeling aggrieved by the sanctioning of impugned authorization to respondent Nos.6 & 7, the captioned writ petition is filed.

4. Heard learned counsel appearing for the petitioner, learned counsel appearing for respondent Nos.6 & 7 and also learned High Court Government Pleader appearing for respondents/State.

5. As rightly pointed out by learned High Court Government Pleader, the petitioner has only questioned the authorization order passed by respondent No.4, while



notification based on which, the authorization order passed is not challenged. Be that as it may. Learned counsel for the petitioner fairly submits that, the petitioner's fair price depot has no objection for establishing the new fair price depots in the said village. But however, he has strong objections in bifurcating the existing cardholders with the petitioner's fair price depot. He would contend that respondent No.4 in all probability may divert the cardholders in contravention of sub-clause (2) of clause 11 of the Control Order 2016.

6. Learned High Court Government Pleader has equally countered the statement made by the petitioner. Learned High Court Government Pleader would vehemently argue and contend that the petitioner has an alternate remedy of appeal and therefore no relief can be granted. Learned High Court Government Pleader appearing for the State and learned counsel appearing for contesting respondents, however, would take this Court to the averments made in paragraph No.3 of the writ



petition, wherein the petitioner has indicated that he has no objection for grant of new fair price shop, if cardholders are found in excess. Admittedly, Yelparati village has around 1193 cardholders. It is in this background, taking into consideration topography and distance has resolved to sanction two fresh depots.

7. Apprehension of the petitioner is that the 4th respondent in all probability may contravene and bifurcate the cardholders thereby prejudicing the petitioner's fair price depot appears to be misconceived. The 4th respondent pursuant to notification has sanctioned two more depots and therefore is required to act in terms of sub-clause (2) of clause 11 of Control Order 2016 while authorizing new fair price depots, Authority has to take into note that the number of the ration card holders to be assigned to new fair price depots or existing fair price depot, should be in terms of sub-clause (2) of clause 11 of the Control Order 2016.



8. The petition even otherwise is found to be premature. It is only on apprehension, the petitioner has filed the present writ petition. Insofar as impugned order sanctioning the authorization to run fair price depots is an administrative/executive action, which cannot be subject matter of judicial review.

9. If there are 1193 cardholders, the 4th respondent shall adhere to the requirement of sub-clause (2) of clause 11 of the Control Order 2016 and thereafter proceed to bifurcate the cardholders in accordance with law.

10. With these observations, the writ petition is disposed off.

**SD/-
JUDGE**

EM
List No.: 1 Sl No.: 12