

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4694 OF 2004

Gundappa S/o Satappa Bardapure and another .. **Petitioners**

Versus

The State of Maharashtra and others .. **Respondents**

Mr Manish N. Navandar, Advocate for the petitioners
Mr S. R. Palnitkar, AGP for respondent/State
Mrs A. N. Ansari, Advocate for respondent No. 6 / Caveator

**CORAM : A.V. NIRGUDE &
V. K. JADHAV, JJ.
DATED : MARCH 10TH, 2015**

PER COURT :-

1. This petition challenged order dated 16th April, 2004 passed by the Hon'ble State Minister, Food and Civil Supplies and Consumer Protection, Maharashtra, renewing kerosene license of respondent No. 6. The petitioners are already having such licenses in the same area and because of the impugned order, their supply would be adversely affected. Therefore, they filed these petitions at interim stage. Following order was passed by this Court on 24th September, 2004.

“1. This writ petition was admitted on 26th July 2004. Rule on interim relief was made returnable after one week. Thereafter, reply has been filed. Order of status-quo appears to have been granted earlier and

thereafter this matter appears before me for hearing on interim relief.

2. *Initially it was contended that there is no order of status-quo after 26th July 2004. Thereafter it is contended that respondent no. 6 has already commenced his business. My attention is invited to the affidavit in reply filed on behalf of respondent and more particularly para no. 8 thereof.*

3. *Learned counsel appearing for respondent no. 6 submits that in similar petitions interim relief has not been granted whereas Mr. Navandar hands over copy of order passed in Writ Petition No. 1946 of 2004 wherein interim relief has been granted.*

4. *In my view, the issue raised in this petition is of a serious nature. Respondent no. 6 had an authorisation in his favour way back in the year 1974. That authorisation had not been renewed admittedly. He made a grievance that authorisation be renewed for some time. Later on that grievance was not made for a period of 18 long years. Intermittently some letters have been addressed to the DSO.. The DSO and the Deputy Commissioner have not taken cognizance of such requests. Naturally, under the rules they have no power to renew licence which has already expired way back in the year 1974. The rule specifies the period for which a licence can be issued and the period for which it can be renewed subsequently. These time limits have to be abided and adhered to by the authorities exercising power under the Control order. These control orders are issued in public interest and to secure equitable distribution of commodities which are essential for public at large. It is not at the sweet will of the authorities and more particularly the revisional authorities that licences can be issued or renewed and cancelled. Their powers are circumscribed by the control orders. In my view, prima facie, respondent no. 6 had no right to apply for renewal. The Minister concerned had also no authority, power and jurisdiction to grant authorisation in favour of respondent no. 6 straight way*

when there are already other licence holders/dealer supplying the essential commodities. It is only when proclamation / advertisement is issued and persons apply in pursuance thereof or where there are emergent situations, that allotments could be made. No such situation has emerged in this case. Therefore, interim relief in terms of prayer clause (D).”

2. The same remained undisturbed even after filing of Letters Patent Appeal. With the result, respondent No. 6 could not get his license renewed and could not start his business of kerosene. More than 10 years have elapsed since then. After hearing submissions at bar, we are not inclined to take any other view than what is expressed above. The petition is allowed in terms of order passed by this Court on 24th September, 2004, which is quoted above.

[V.K. JADHAV, J.]

[A.V. NIRGUDE,J.]