

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
LETTERS PATENT APPEAL NO.117 OF 2004 IN
WRIT PETITION NO.4393 OF 2004

1 Sow. Aparna w/o Sanjay Patil,
age: 28 years, Occ: Business,
R/o Killa Road, Nanded.

Appellant

Versus

01 The State of Maharashtra,
through the Secretary,
Civil Supplies & Consumer
Protection Department,
Mantralaya, Mumbai-400 032.

02 The Deputy Commissioner
(Civil Supplies), in the office
of the Divisional Commissioner,
Aurangabad Division,
Aurangabad.

03 The District Supply Officer,
Nanded.

04 The Hon'ble Minister for State
for Civil Supplies & Consumer
Protection Department,
Mantralaya, Mumbai-400 032.

05 Vinayak s/o Raosaheb Deshmukh,
age: major, Occ: Nil,
R/o Swatantrya Sainik Colony,
Nanded.

06 Smt.Radhabai w/o Raosaheb
Deshmukh, age: major,
Occ: Household, R/o Swatantrya
Sainik Colony, Nanded.

Respondents

Mr.A.S.Deshpande, advocate for the appellant.
Mr.S.K.Kadam, A.G.P. for Respondents No.1 to 4.
Mr.Anil Kasliwal, advocate for Respondents No.5 & 6.

**CORAM : R.M.BORDE &
SUNIL P. DESHMUKH, JJ.
DATE : 12th February, 2015**

ORAL JUDGMENT (Per R.M.Borde, J.):

1 The appellant is taking exception to the order passed by the learned Single Judge in Writ Petition No.4393 of 2004, decided on 30.07.2004.

2 Fair Price Shop No.51, within the Municipal limits of Nanded city, was initially allotted to one Raosaheb Sakharam Deshmukh, who was a freedom fighter. He died in the year 2002 and thereafter his widow claimed entitlement for allotment of the said fair price shop. In the meanwhile, a proclamation for allotment was issued and reservation was prescribed in favour of women category as per the Government policy declared on 28.03.1999. The appellant has been found successful in the selection process and was issued allotment letter since it was noticed that she was from the category of educated unemployed persons. The son of the freedom fighter tendered an appeal challenging the allotment which was dismissed by the Deputy Commissioner (Civil Supplies), Aurangabad. The appeal carried by the son of the freedom fighter to the State Government has been allowed and allotment in favour of appellant has been quashed. The appellant, as such, approached this Court by presenting Writ Petition, referred to above.

3 The writ petition came to be allowed and the order passed by the State Government, impugned before the learned Single Judge, was set aside. The allotment made in favour of the appellant vide order dated 19.11.2003 was also set aside. Respondent No.3 in the writ petition i.e. District Supply Officer was directed to issue fresh proclamation in respect of subject shop. It was directed that the whole process for allotment shall be completed within a period of three months from the date of the order.

4 After presentation of L.P.A., at the stage of admission, while considering Civil Application No.6914/2004, this Court directed stay of operation of the directions issued by the learned Single Judge in respect of issuance of fresh proclamation only. It, thus, appears that the order passed by the learned Single Judge, setting aside allotment of shop in favour of the petitioner on 19.11.2003, was not stayed.

5 It is not a matter of dispute that during pendency of this LPA, policy in respect of allotment of shop declared by the Government has undergone several changes. In view of the change in policy in respect of allotment of fair price shops operating under the PDS scheme, the District Supply Officer shall have to take appropriate steps in accordance with the changed policy. It would be open for the appellant to participate in the process, that would be initiated by the District Supply Officer, for allotment of fair price shops. In our view, after lapse of more than ten years from the date of issuance of order, at this stage, no interference is called for. The proclamation issued in pursuance to

the directions issued by the learned Single Judge in the year 2004 has also lost its significance and no steps can be taken in furtherance of such proclamation. It would be open for the Respondents to adopt appropriate procedure prescribed under the policy and take steps for allotment of shops operated under PDS Scheme. No interference is called for.

6 With the directions as above, Letters Patent Appeal stands dismissed. There shall be no order as to costs.

Pending Civil Applications, if any, do not survive and stand disposed of.

SUNIL P. DESHMUKH
JUDGE

R.M.BORDE
JUDGE

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