

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

WRIT PETITION NO.3514 OF 2015

Nandabodhi Magas Vargiya
Grahak Sahakari Sanstha
Maryadit, Aurangabad through
its Chairman, Shaikh Rasid
Shaikh Mehboob,
Age 35 years, Occu. Business,
R/o A-12, Sanjaynagar,
Baijipura, Aurangabad

..Petitioner

Versus

1. The State of Maharashtra,
through its Principal Secretary,
Food, Civil Supply and Consumer
Protection Department,
Mantralaya, Mumbai
2. The Hon'ble Minister,
Food, Civil Supply and Consumer
Protection Department,
Mantralaya, Mumbai 32
3. The Deputy Commissioner,
(Supply), Aurangabad Division,
Aurangabad
4. The District Supply Officer,
Aurangabad, Taluka and
District Aurangabad
5. Goroba Ramnath Dehare,
Age 50 years, Occu. Business,
R/o House No.1-10, 17,
Bhausingpura, Bhimnagar,
Aurangabad

.. Respondents

Mr P.S. Dighe, Advocate for petitioner
Mrs M.A. Deshpande, A.G.P. for respondents No.1 to 4
Mr V.M. Humbe, Advocate for respondent No.5

CORAM : N.W. SAMBRE, J.

DATE : 11th September 2015

PER COURT

1. The present proceedings are initiated by the petitioner for recalling of the judgment and order delivered on 2nd March 2015 in Writ Petition No.553 of 2014.

2. The facts in brief as are necessary for deciding the present application are as under :

3. The issue revolves around the right of the parties to run the licence issued under the Essential Commodities Act in favour of the present petitioner.

4. It is required to be noted that the petitioner – society was holding licence from 1978 issued under the relevant provisions of Essential Commodities Act, went into liquidation in 1984 whereas the licence came to be issued them in 1982.

5. The petitioner Goroba Ramnath Dehere in Writ Petition No.553 of 2014 admittedly was working as a salesman with the said society and in view of the proceedings of liquidation of the society, the said licence came to be allotted to him, i.e. present respondent No.5 pursuant to a separate application moved by him. The said licence was cancelled in 2004 after noticing certain malpractice and as such, was subject matter of Writ Petition No.553 of 2014. Writ Petition No.553 of 2014 came to be allowed vide order dated 2nd March 2015,

wherein the authority was directed to restore the said licence in favour of respondent No.5 i.e. petitioner in Writ Petition No.553 of 2014.

6. It is not in dispute that the licence No.78 was originally allotted to Nandabodhi Magas Vargiya Grahak Sahakari Sanstha Maryadit, Aurangabad and then in favour of present respondent No.5. After cancellation of same in favour of respondent No.5, the same was again restored/re-allotted in favour of the said society on 18th August 2004.

7. The fact about allotment of licence in favour of the society was not brought to the notice of this Court by the parties to Writ Petition No.553 of 2014 and as such, this Court, without hearing the society has ordered restoration of licence in favour of present respondent No.5.

8. If the order dated 2nd March 2015 passed in Writ Petition No.553 of 2014 is given effect to, same shall cause prejudice to the present petitioner-society, as applicant-society is running the licence in question since 2004 and was not heard in the matter, as was not impleaded as party to the said petition.

9. In view of above, in my opinion, case for reviewing the order dated 2nd March 2015 is made out.

10. As such, the order dated 2nd March 2015 passed in Writ Petition No.553 of 2014 without hearing the present applicant-society is set aside and the Writ Petition No.553 of 2014 stands restored. Learned Counsel for the petitioner - society is granted leave to add Nandabodhi Magas Vargiya Grahak Sahakari Sanstha Maryadit, Aurangabad as party - respondent No.5 to the said petition.

11. In view of the setting aside of the order dated 2nd March 2015, Writ Petition No.553 of 2014 is restored to the file and it be heard afresh.

12. Writ Petition stands allowed to the above extent.

(N.W. SAMBRE, J.)

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