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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6584 OF 2014

Ganpat Sitaram Adav	...Petitioner
v/s.	
Anil Deshmukh, Minister, Food and Civil Supplies & Consumer Protection and Ors.	...Respondents.

WITH
CIVIL APPLICATION NO.821 OF 2015
IN
WRIT PETITION NO.6584 OF 2014

Sudhakar Ganpat Khedekar and Ors.	...Applicants.
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IN THE MATTER BETWEEN

Ganpat Sitaram Adav	...Petitioner
v/s.	
Anil Deshmukh, Minister, Food and Civil Supplies & Consumer Protection and Ors.	...Respondents.

Mr.Pravartak Pathak, for the Petitioner.
Mr.Mahesh Londhe a/w Mr.Akshay Udeshi i/b M/s.Sanjay Udeshi & Co.,
for the Applicant in Civil Application.
Ms.M.P.Thakur AGP for the Respondent – State.

**CORAM: A. S. OKA &
REVATI MOHITE DERE, JJ.**

DATED : 8th JULY, 2015.

P.C.

1. Heard the learned counsel appearing for the petitioner and the learned AGP appearing for the respondents. We have also heard the learned counsel appearing for the applicants in Civil Application No.821 of 2015.

2. The challenge in this petition under Article 226 of the Constitution of India is to the order dated 21st June, 2014 passed by the District Supply Officer, Ratnagiri as well as the order dated 5th September, 2014 passed by the Hon'ble Minister of Food and Civil Supplies and Consumer Protection of the State Government.

3. The petitioner is holding a license to sell the kerosene. The petitioner is carrying on the business in a shop at Village – Varawade, Bhandarwada, Taluka and District - Ratnagiri.

4. On the basis of an application purportedly made by the villagers on 6th September, 2013, a notice was issued by the District Supply Officer to the petitioner calling upon him to remain present for hearing. By order dated 21st June, 2014, the permit/license granted to the petitioner was

cancelled. The said order records that on the application made by the villagers, a direction has been issued by the Hon'ble Minister of Food and Civil Supplies & Consumer Protection of the State Government to pass such order and accordingly the said order is being passed.

5. It appears that the petitioner made a representation to the Hon'ble Minister against the order passed by him. By treating the said representation as a Revision Application, the Hon'ble Minister rejected the same and confirmed the order dated 21st June, 2014.

6. After having heard the learned counsel appearing for the petitioners, the learned AGP appearing for the respondents and the learned counsel appearing for the applicants in Civil Application No.821 of 2015, we are of the view that the impugned orders are illegal for more than one reason. Firstly, the impugned order dated 21st June, 2014 clearly records that the same is being passed as per the directions issued by the Hon'ble Minister of Food and Civil Supplies & Consumer Protection. We have perused the said order dated 21st June, 2014. Conclusions are recorded in paragraphs A and B of the said order. We find that there is no adverse finding recorded by the District Supply Officer against the petitioner in the

said part of the order. He has relied only upon the order passed by the Hon'ble Minister on the application dated 4th June, 2014 made by the villagers. Perusal of the said order of the District Supply Officer shows that the hearing was fixed on the basis of the complaint of the villagers dated 6th September, 2013. Thus, there is no independent application of mind made by the District Supply Officer and he has passed the order of cancellation only on the basis of the order issued by the Hon'ble Minister. Surprisingly on the basis of the application made by the petitioner to the Hon'ble Minister seeking withdrawal of the direction issued by him, the Hon'ble Minister passed an order treating the said application as Revision Application. Shockingly, the Hon'ble Minister who issued the directions to the District Supply Officer to pass the order proceeded to hear the Revisions Application himself and confirmed the order dated 21st June, 2014 which was based on his own order. The prayer of the petitioner before the Hon'ble Minister was for reconsideration of the direction issued by him to District Supply Officer.

7. Thus, the District Supply Officer without recording any adverse finding against the petitioner has passed the drastic order of cancellation of the license only on the basis of the order of the Hon'ble Minister. The same

Hon'ble Minister by exercising the revisional powers has confirmed the order passed by the District Supply Officer only on the basis of the order passed by him. Therefore, both the impugned orders will have to be quashed and set aside being completely illegal.

8. The learned counsel appearing for the applicants in Civil Application No.821 of 2015 submits that as there are serious grievances made by the villagers, the District Supply Officer be directed to hold a fresh hearing. The submission of the learned counsel appearing for the petitioner is that under the order dated 25th November, 2013, passed by the District Supply Officer, adjudication has been already made on the basis of the same complaint of the citizens which was considered while passing the order dated 21st June, 2014. Therefore, he submitted that no adjudication is called for on the same complaint.

9. It is not necessary for us to go into the merits of the complaint made by the villagers. We may observe here that though we are setting aside the impugned orders, if the District Supply Officer is of the view that action needs to be taken against the petitioner on the basis of the complaint made by the citizens or otherwise, it will be open for the District Supply

Officer to initiate proceedings against the petitioner by issuing a show-cause-notice. Hence, we dispose of this petition by passing the following order :-

ORDER

- i) Subject to observations made above, while granting liberty to the District Supply Officer to issue a fresh show-cause-notice, the impugned orders dated 21st June, 2014 and 5th September, 2014 are quashed and set aside ;
- ii) Rule is made absolute accordingly.

10. Civil Application No.821 of 2015 does not survive and the same is accordingly disposed of.

(REVATI MOHITE DERE,J.)

(A.S. OKA,J.)