

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8417 OF 2015**

M/s Dharavi Grain Dealer
Association

Petitioner

Vs

State of Maharashtra and Ors

.. Respondents

Mr. Mukesh V Aiya, Advocate for Petitioner.

Ms. Vaishali Nimbalkar, A.G.P for Respondents no. 1 to 3.

Mr. G.N.Salunke, Advocate for Respondent no.4.

CORAM : R.G.KETKAR,J.

DATE : 21/08/2015

PC:

1. Heard Mr. Mukesh Aiya, learned counsel for the petitioner, Ms Vaishali Nimbalkar, learned A.G.P for respondents no.1 to 3 and Mr. G.N.Salunke, learned counsel for respondent no.4 at length.

2. Rule. Learned counsel for the respective respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and petition is taken up for final hearing.

3. By this Petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the communication dated 12.8.2015 passed by Desk Officer, Food & Civil Supplies and Consumer Protection Department. By that communication, the Desk officer has intimated granting of stay by Hon'ble Minister for Food & Civil Supplies and Consumer Protection Department, vide order No. EP/Demand/2014, Outward no.3785 dated 31.7.2015.

4. By order dated 12.12.2014, Dy. Controller of Rationing, 'E' Region, Wadala, Mumbai, (for short, 'Dy. Controller') had transferred rationing shops of (1) M/s Navjyot Grain Dealer Association, (2) M/s Jay Ganesh/Sainath Service Pvt Ltd to respondent no.4. By order dated 31.7.2015, Dy. Controller transferred the rationing shops attached to Navjyot Grain Dealers Association to the petitioner. Aggrieved by that decision, respondent no.4 preferred Revision Application before Hon'ble Minister for Food and Civil Supplies. Pending that revision application, Hon'ble Minister has passed order on 31.7.15 staying operation of the order dated 31.7.2015 passed by Dy. Controller. It is against the stay order passed by the Honourable Minister, the petitioner has instituted this petition.

5. Learned counsel appearing for the parties, namely petitioner and respondent no.4 agree that, by consent the order dated 31.7.2015 passed by Dy.Controller be set aside and petitioner and respondent no.4 may be permitted to file their replies/written submissions before Dy. Controller. They state that they will appear before the Dy. Controller on 26.8.2015 and, for that purpose, fresh notice need not be issued to them. On that date, they will file replies/written statement and serve copy on the other side. Ms. Nimbalkar submits that Dy. Controller shall decide and pass appropriate orders within two weeks from the date of appearance of the parties.

6. Mr. Salunke submits that Revision is preferred against the order dated 31.7.2015 passed by Dy. Controller and since that order is set aside, he will not press his Revision Application before the Hon'ble Minister for Food and Civil Supplies and will file formal application for withdrawal of that revision application.

7. In view thereof, by consent of the parties, Petition is disposed of in the following terms:

(i) Order dated 31.7.2015 passed by Dy. Controller of Rationing is quashed and set aside.

(ii) Petitioner and Respondent no.4 will appear before Dy. Controller on 26.8.2015 and for that purpose fresh notice need not be issued to them. On that date, they will file their replies/written submissions before the Dy. Controller and serve copy on the other side.

(iii) Dy. Controller of Rationing shall hear the parties and pass a speaking order within two weeks from the date of appearance of the parties and communicate the order to the petitioner and respondent no.4 within one week.

(iv) All contentions of the parties on merits are expressly kept open.

(v) Rule is disposed of in the aforesaid terms with no order as to costs.

(R.G.KETKAR, J.)