

Abhishek Kashinath Vartak	... Petitioner
v/s	
The State of Maharashtra and another	... Respondents

Mr Shekhar Ingawale, AGP for Respondent No.1 - State.
Mr Pratap Patil i/b Mr Manoj M. Kadam for Respondent No.2.

**CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA JJ.**

DATE : 26TH OCTOBER 2015

P.C. :-

1. The Petitioner, by this Writ Petition, seeks a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents to forthwith issue a ration card in the name of the Petitioner, his wife and daughter.
2. The Petitioner projects in the Petition that he is the son of Kesarinath Vartak. The Petitioner in paragraph 1 of the Petition

states that he is a lawful occupant of Room No.16, Building No.5, Third Floor, BMC Colony, Rawali Camp, Sion Koliwada, Mumbai 400 022. The Petitioner never came across any lady by name Mrs Savitri Dagdu Dalvi. However, this lady, after the death of the Petitioner's father, claimed to be the wife of the father of the Petitioner. The Petitioner states that Mrs Savitri Dagdu Dalvi, for the purpose of claiming herself to be the wife of the father of Petitioner committed forgery in respect of various documents and accordingly after filing a criminal writ petition in this Court initially, the Petitioner also filed a criminal complaint before the Metropolitan Magistrate, 51st Court, Kurla, Mumbai. Annexure 'A' to the Petition is a copy of the said complaint.

3. A ration card bearing Sr. No.0234428, wherein the name of the Petitioner has been shown as one of the occupant of the premises, has been issued in the year 1985 or thereabout. The ration card originally issued has been changed in terms of the applicable policy. That is how the old ration card was surrendered and a new one came to be issued. The Petitioner states that there was no difficulty but on 8th December 2011, the Petitioner

complained that suddenly the name of the Petitioner came to be deleted from the ration card. The Petitioner states that the ration card should be issued in his favour. The Petitioner is aware of the fact that the ration card cannot be utilised as a proof and for various purposes but in the absence of ration card, the petitioner and his family are suffering.

4. The Petitioner surprisingly on such pleadings joined the State of Maharashtra, through the Rationing Authority as Respondent No.1 and thereafter the Respondent No.2 – Ms Sneha Kesarinath Vartak as a party Respondent. However, in the memo of Petition, we do not find any averment to support the joinder of the Respondent No.2.

5. The joinder is because the Respondent No.2 claims to be residing at this very address and premises. She claims that the first wife of Kesarinath – Kalavati expired on 5th August 1990. The marriage of Kesarinath and this Respondent No.2, according to this Respondent No.2, was solemnized on 30th December 1994. The Petitioner's averment in paragraph 1 of the Petition with reference to one Mrs Savitri Dagdu Dalvi is incorrect inasmuch as after the death

of Petitioner's mother – Kalavati on 5th August 1990, the Respondent No.2 claims to be residing with the father of the Petitioner – Kesarinath and even the Petitioner. Though the Petitioner claims to be having no knowledge of any marriage or Respondent No.2's whereabouts, this affidavit of the Respondent No.2 states that the Petitioner himself in the FIR had stated that the second marriage was performed by the Petitioner's wife. Then it is claimed by the Respondent No.2 that the Petitioner alongwith his wife was residing originally at the Rawali Camp premises but have left the premises three years prior to the filing of this affidavit in this Court. It is claimed that the Petitioner is not residing at the Rawali Camp premises for quite some time and at least three years prior to the date of filing of this affidavit in reply. The Respondent No.2 claims that her name could not be entered in the ration card because of the disputes and since Kesarinath postponed the action of seeking the correction therein. She stated in what circumstances she could not follow up the matter. The Petitioner cannot take advantage according to the Respondent No.2 of her name having not been entered. Paragraph 7 of this affidavit once again reiterates that the

Petitioner was not residing in the premises. Then the visit of the Rationing Officer is referred to and we find that from all this there appears to be a clear dispute as to whether the Petitioner's mother – Kalawati or the Respondent No.2 are wives of the said Kesarinath. If indeed Kalawati is and she died and there is no dispute about this fact, then, whether there is a valid marriage between the Petitioner's father Kesarinath and the Respondent No.2. This fact is disputed by the Petitioner.

6. The ration card is ordinarily associated with the supply of foodgrains and commodities. It is issued to ensure that supply of said commodities reaches those who are below the poverty line and for whom it is not possible to purchase them at the prevailing price in the market. Therefore, a ration card is issued so that the person can approach a shop, from where essential commodities are distributed under the public distribution system, and located near his residential premises. Now, there is a clear dispute whether the Petitioner is residing in the residential premises and which are referred to in the ration card. In the absence of all this and when Mr Ingawale, learned Additional G.P. states on instructions that the

Rationing Inspector visited the premises, however, according to Mr Ingawale, this Rationing Inspector found that the Petitioner – Abhishek was not residing in the premises. In such circumstances and when there are disputed questions of fact and in the garb of allotment of Ration Card, the Petitioner tries to establish his right in the premises, then, we are not inclined to entertain this Petition. Needless to clarify that if the Petitioner is residing at some other place, he could always approach the Rationing Office and request the Authority for issuance of ration card in his name and include therein names of his wife and daughter. If such an application is made, then irrespective of the disputes, the Rationing Authority shall consider it in accordance with law. Needless to clarify that our observations and conclusions in this order will not affect the outcome of the criminal case in any manner.

(B.P. COLABAWALLA, J.)

(S.C.DHARMADHIKARI J.)