

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

WRIT PETITION NO. 1669 OF 2013

M/s J.G. Kamdar

.. PETITIONER

VERSUS

The State of Maharashtra
& others

.. RESPONDENTS

Mr. M.S. Kulkarni, advocate for petitioner.
Mr. V.M. Kagne, AGP for the State.
Mr. A.P. Bhandari, advocate for respondent no. 4.

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CORAM : R.M. BORDE &

A.I.S. CHEEMA, JJ.

DATE : 16th FEBRUARY, 2016.

PER COURT :

1. Petitioner is aggrieved by refusal of respondent no. 4 – oil company to resume supply of kerosene in furtherance of the order passed by the Honurable Minister.

2. It is not a matter of dispute that on account of commission of crime punishable under the provisions of Essential Commodities Act, petitioner was prosecuted and, after full length trial, the criminal Court held him not guilty of the charges levelled against him. During the pendency of the proceeding before the criminal Court, the license issued in favour of petitioner was cancelled, which order was challenged by him before the District Supply Officer. The District Supply Officer held against the petitioner, which order was subjected to challenge before the Honourable Minister, Food and Civil Supply. Although, initially, the order was passed in

favour of petitioner, the Honourable Minister took review of the earlier order and confirmed the order of cancellation of license. The order passed by the Honourable Minister has been confirmed by the learned Single Judge of this Court in Writ Petition No. 3854/2003 so also in Letters Patent Appeal presented by petitioner as well as by Supreme Court in Civil Appeal no. 2816/2005.

3. After decision of the competent criminal Court directing acquittal of petitioner from the charges levelled against him, he approached the Honourable Minister seeking restoration of the license in the changed circumstances. Appeal presented by petitioner came to be allowed and the whole sellers license has been directed to be restored. Stand taken by the oil company in the instant petition is that the Honourable Minister while considering the appeal has not applied his mind to the earlier order passed and the order passed by the learned Single Judge, Division Bench of this Court and the order passed by the Supreme Court. Apart from this, the petroleum company was not heard by the Honourable Minister before directing restoration of the license. The effect of issuance of direction to restore the license is that the petroleum company will have to resume supply of kerosene and, since the petroleum company is very much concerned with the supply of kerosene, the company was required to be heard before passing the order.

4. Considering the stand taken by the petroleum company, we are of the opinion that the order passed by the Honourable Minister, on consideration

of the appeal presented by petitioner, needs to be reconsidered. The order passed by the Honourable Minister dated 09.01.2008 directing restoration of license in favour of petitioner is quashed and set aside and the matter stands remitted back to the Honourable Minister, Food and Civil Supply, for re-consideration. The Honourable Minister, after extending an opportunity of hearing to the petroleum company, shall pass appropriate order. It would be open for the petroleum company to make appropriate submissions before the Honourable Minister and point out earlier orders passed in the matter, including the order passed by this Court and the Supreme Court. If the Honourable Minister issues order directing restoration of the license, resumption of quota of kerosene shall be subject to approval of the board of the petroleum company. The Honourable Minister shall take appropriate decision in the matter, as expeditiously as possible, preferably within a period of six months from today. Writ petition stands disposed of.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE

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