

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

**REVIEW APPLICATION NO.9 OF 2014  
IN  
WRIT PETITION NO.335 OF 2012**

Namdeo s/o. Mahadeo Mali,  
Age: 58 Years, Occu.: Agril.,  
R/o. Mendha, Tq. and Dist.  
Osmanabad.

**APPLICANT**

(Orig.Resp.No.4)

**VERSUS**

1. The State of Maharashtra  
Through the Minister  
Shri Anil Deshmukh  
Food, Civil Supply &  
Consumer Protection Department,  
Mantralaya, Mumbai-400 032.
2. Deputy Commissioner (Supply),  
Aurangabad Region, Aurangabad
3. Deputy Collector (Supply)  
Osmanabad,  
Tq. & Dist. Osmanabad.
4. Bapu s/o. Jagalu Dhormare,  
Age: 42 years, Occu.: Agril.  
R/o. Mendha, Tq. and Dist.  
Osmanabad.
5. Dhananjay s/o. Nagurao Gule,  
Age: 58 Years, Occu.:Agril.  
R/o. Mendha, Tq. and Dist.  
Osmanabad.

**NON-APPLICANTS**

(No.1 to 3 are Orig.  
Respdt.& No.4 & 5  
is Orig.Petitioner)

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Mr.V.D.Salunke, Advocate h/f. Mr.  
M.A.Thorbole, Advocate for the Applicant  
Mr.A.R.Borulkar, AGP for Respondent Nos.1 to 3  
Mr.R.P.Bhumkar, Advocate for Respondent Nos.4  
and 5.

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**CORAM: S.S.SHINDE, J.**

Reserved on : 05.10.2016

Pronounced on : 07.10.2016

**ORDER:**

1. This Review Application seeks review of the judgment and order dated 05.03.2013 passed by this Court in Writ Petition No.335/2012.

2. The learned counsel appearing for the review applicant submits that the District Supply Officer should not have cancelled the license to run the fair price shop. The said decision of the District Supply Officer to cancel the license to run the fair price shop is not sustainable in law. He did not follow the principles of natural justice. The learned Minister for

Food, Civil Supply and Consumer Protection, who heard second Revision, recorded the findings of facts and then passed the order in favour of the applicant. It is submitted that the order passed by the learned Minister for Food, Civil Supply and Consumer Protection was well within revisional jurisdiction. While deciding the Writ Petition, this Court relied upon the decision in the case of ***Shivaji Tulshiram Thakre Vs. State of Maharashtra and others***<sup>1</sup>. However, in the facts of that case, the Minister exercised the review jurisdiction. He further invited my attention to the grounds taken in the Review Application and submits that the Review Application deserves to be allowed.

3. On the other hand, the learned counsel appearing for respondent nos.4 and 5 i.e. original petitioners submits that the review application is not filed by the

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1 2012 (3) All M.R. 789

Advocate on record in the Writ Petition and therefore, same is not maintainable. There is no error apparent on the face of record so as to review the judgment and order dated 05.03.2013 passed by this Court in Writ Petition No.335/2012. In support of his contention that, the review application is not maintainable, he placed reliances on the exposition of law in the case of **Mohan Lal Bagla Vs. Board of Revenue, U.P., Luchknow and other<sup>2</sup>** and also in the case of **T.N.Electricity Board and Anr. Vs. N. Raju Reddiar and Anr.<sup>3</sup>**. He further submits that the findings recorded by the learned Minister for Food, Civil Supply and Consumer Protection in second Revision filed by the applicant are without any basis. There is no reference in his order that he has summoned and perused the original record of the case. A findings recorded and the order passed by

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<sup>2</sup> AIR 2005 Allahabad 308

<sup>3</sup> AIR 1997 SC 1005

the learned Minister was beyond scope of the revision. The relatives of the review applicant are in Government service and he is rich person. Therefore, the observations by the Minister that, to give one more opportunity to the review applicant to run fair price shop by paying Rs.10,000/- fine, is nothing but giving an opportunity to indulge into playing fraud. It is stated in the application that the dead persons filed complaint against review applicant, is not correct. He invited my attention to the affidavit-in-reply in that respect, and in particular para 4 and 5 of the reply. It is submitted that the Minister has made adverse remarks against the applicant and also imposed fine of Rs.10,000/-. The applicant did not challenge the order of Minister whereby the adverse remarks are made against him. Therefore, relying upon the averments in the affidavit-in-reply, the learned counsel

appearing for the respondent nos.4 and 5 submits that the Review Application may be rejected.

4. I have given careful consideration to the submissions of the learned counsel appearing for the review applicant, the learned AGP appearing for the respondent – State and the learned counsel appearing for respondent nos.4 and 5. Upon careful perusal of the grounds taken in the Review Application, none of the grounds gives rise for recalling/reviewing the judgment and order passed by this Court in Writ Petition No.335/2012. During the course of hearing of the Writ Petition, the learned counsel Mrs.M.A.Kulkarni appeared for the review applicant i.e. respondent No.4 in Writ Petition and submitted that, the scope of revision before the learned Minister is not restricted and it is open for the Minister to review the order passed by the District

Supply Officer, if he finds that the District Supply Officer has not followed principles of natural justice, or material placed on record has not been considered. In that view of the matter, this Court placed reliance on the decision rendered in the case of **Shivaji Tulshiram Thakre** (supra).

5. Upon careful perusal of para 6 to 10 of the judgment and order under review, it is abundantly clear that, this Court has treated and considered the proceedings filed by the applicant before the Minister as revision and upon appreciating the submissions of the learned counsel appearing for the parties and the material placed on record, has taken a view that the order passed by the Minister is beyond the scope of the revision, that too, while entertaining second revision filed by the present applicant. This Court in para 6 to 10 of the judgment has made detailed observations why the order passed by the

Minister was beyond the scope of second revision.

6. It is not necessary for this Court to reiterate the reasons / observations made in the judgment and order under review, suffice it to say that the judgment under review needs no interference. There is no error apparent on the face of record so as to review the judgment and order under review. Hence the Review Application stands rejected.

7. The Civil Application No.13242/2016 stands disposed of accordingly.

Sd/-  
**[S.S.SHINDE]**  
**JUDGE**