

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

**WRIT PETITION NO. 9851 OF 2015**

Appasaheb s/o Alu Chavan,  
age 30 years, Occ. Agril,  
R/o Vasant Nagar Tanda  
pachegaon, Tq. Georai,  
Dist. Beed.

Petitioner.

VERSUS

1. The State of Maharashtra,  
Through the Secretary,  
Food, Civil Supply and Consumer  
Protection Department,  
Mantralaya, Mumbai 32.
2. The Deputy Commissioner (Supply),  
Aurangabad Division,  
Aurangabad.
3. The District Supply Officer,  
Beed Dist. Beed.
4. The Tahsildar, Georai,  
Tq. Georai, Dist Beed.
5. Sumitrabai Gulab Rathod,  
age major, Occ. Business,  
R/o Vasant Nagar (Tanda),  
Post Pachegaon, Tq. Georai,  
Dist Beed.

Respondents.

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Advocate for Petitioner : Mr S J Salunke  
AGP for Respondents No. 1-4 : Mr N B Patil  
Advocate for Respondent No.5 : Mr N B Khandare h/f  
B B Bhise

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**CORAM : V.K. JADHAV, J.****Dated: February 26, 2016**

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**ORAL JUDGMENT :-**

1. Heard. Rule. Rule made returnable forthwith. With the consent of learned counsel for respective parties, heard finally at admission stage.

2. Respondent No.5, who is authorized to run fair price shop at village Vasant Nagar Tanda, allegedly involved in illegalities and certain charges were levelled against her. On inquiry, the authorization of the fair price shop run by respondent no.5 was suspended by the District Supply Officer, Beed. Respondent No.5 preferred Revision Petition before the Deputy Commissioner (Supply) Aurangabad against the order of District Supply Officer, Beed and the Deputy Commissioner (Supply), Aurangabad confirmed the order passed by the District Supply Officer, Beed. Thereafter, respondent no.5 filed a second Revision before the learned Minister of Food, Civil Supplies and Consumer Protection Department, Mantralaya, Mumbai challenging the orders. The learned Minister partly

allowed the revision and restored the authorization with respondent no.5 on forfeiture of deposit and on imposition of certain costs.

3. One Mansing Balu Rathod, the villager, challenged the said order of learned Minister before this Court by filing Writ Petition No.6241 of 2007. This Court, by order dated 21.7.2008 issued Rule in the Writ Petition and the interim relief staying the effect of the order passed by the learned Minister stands continued. Consequently, for about 7 years, interim relief granted by this Court remained in force. Thereafter, Mansing Balu Rathod had withdrawn said writ petition No.6241 of 2007 by order dated 24.6.2015, and this Court had granted leave and accordingly disposed of said writ petition as withdrawn. Thereafter, the District Supply Officer, Beed by order dated 6.7.2015 allowed respondent no.5 to run fair price shop in the light of the order passed by the learned Minister which was the subject matter of the Writ Petition No.6241 of 2007. Hence, this Writ Petition.

4. The learned counsel for the petitioner submits that, said Mansing Rathod won over respondent No.5 and accordingly, he had withdrawn said writ petition. Learned counsel submits that for about seven years, interim relief granted by this Court remained in force and, as soon as writ petition was withdrawn, in the very next next month, District Supply Officer, Beed, has restored the licence of Fair Price Shop of respondent No.5 in the light of the order passed by the Hon'ble Minister.

5. Learned counsel Mr. Khandare appearing for respondent no.5 submits that, the petitioner has no locus to challenge the order passed by the District Supply Officer dated 6.7.2015. Learned counsel submits that, said Mansing Rathod withdrawn writ petition on his own and respondent no.5 has nothing to do with it. Since said writ petition was withdrawn, the District Supply Officer, Beed has rightly passed the impugned order dated 6.7.2015.

6. I have also heard the learned AGP for the

respondent nos. 1 to 4. Learned AGP also filed his reply of respondents no. 1 to 3.

7. This Court, by order dated 21.7.2008 in writ petition no.6241 of 2007 filed by Mansing Rathod has observed that, although, the charges 1 to 4 are said to have been proved against present respondent no.5, still then, the learned Minister thought it fit to cause interference in exercise of the revisional jurisdiction. This court has further observed that, the charges levelled against the petitioner which are stated to have been proved are in respect of the irregularities, in respect of distribution of essential commodities as well as fabrication of record. This court has further observed that, inspite of finding recorded by the revisional authority that the charges levelled against the petitioner have been proved and further that action taken by the authority was held to be proper, there was no reason for the learned Minister to cause any interference in exercise of the revisional jurisdiction. In view of this matter, this court has continued the relief staying the effect of the order passed by the learned

Minister till the final disposal of petition by making rule in the matter.

8. In the light of these findings, said order remained in force for near about 7 years. Even though, said Mansing Rathod had subsequently withdrawn writ petition no.6241 of 2007, the fact remained as it is that the charges have been proved against present respondent no.5 and findings recorded by the revisional authority to the effect that charges have been proved, remained as it is. The charges are serious and those charges are in respect of the irregularities, in respect of the distribution of the essential commodities as well as fabrication of record.

9. In view of this, it is immaterial as to who has set the law on motion, however, keeping all these observations as it is, the learned District Supply Officer, Beed has passed the impugned order on 6.7.2015, restoring the licence of Fair Price Shop of respondent no.5 on the basis of the said order passed by the learned Minister in the Revision.

10. In view of this, the order passed by the learned Minister dated 12.10.2007 in revision No. 376/2007 and the consequently, order passed by District Supply Officer, Beed dated 6.7.2015 are liable to be quashed and set aside.

11. The learned counsel for respondent no.5 submits that, since six months, as per the order passed by the District Supply Officer, Beed, respondent no.5 is running the Fair Price Shop, and, she may be allowed to run that shop in future till the matter is finally decided by the authorities. I am not inclined to accept the same for the reason that for seven years respondent no.5 was not running the shop and, in any manner she cannot be permitted now to continue with the same in the light of the order passed by the District Supply Officer dated 6.7.2015, which is apparently illegal. Hence, following order is passed.

### **ORDER**

I. Writ petition is hereby allowed.

II. The order dated 12.10.2007 passed by the learned Minister of Food, Civil Supplies and Consumer Protection Department, Mantralaya, Mumbai in Revision No.376 of 2007 and, the order passed the District Supply Officer, Beed dated 6.7.2015, are hereby quashed and set aside.

III. The revision No.376 of 2007 is hereby restored to its original position and, the learned Minister of Food, Civil Supplies and Consumer Protection Department, Mantralaya, Mumbai, is requested to decide the said Revision afresh, after extending an opportunity of hearing to all the concerned, in accordance with law, within three months from the date of this order.

IV All points kept open.

V. Rule is made absolute in above terms.

VI. Writ Petition is disposed of accordingly.

VII. In the circumstances there shall be no order as to costs.

**( V.K. JADHAV, J. )**