

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

901 WRIT PETITION NO. 11755 OF 2015
WITH CA/11265/2016 IN WP/11755/2015

RATANLAL BANSILAL BHUTADA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Thombre S.S.
AGP for Respondents 1 to 4 : S.K. Tambe
Advocate for Respondent 5 : K.J. Suryawanshi
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CORAM : T.V. NALAWADE, J.
DATED : 20th August, 2016.

ORDER :

1. The petition is filed to challenge the order dated 26.11.2015 made by the Hon'ble Minister of Civil Supplies and Consumer Protection Department of Maharashtra State by which stay is granted to the order made by the Deputy Commissioner of Supplies, Aurangabad. Heard both the sides.

2. The petitioner was running fair price shop and due to complaints made against him, Tahsildar had made inquiry and had submitted the report to District Supply Officer on 6.5.2015. The report was given to cancel/suspend the licence issued to the petitioner to run the fair price shop. After receipt of this report, District Supply Officer directed Tahsildar to conduct fresh inquiry and submit the report.

3. It is the case of petitioner that due to influence of local M.L.A., now the District Supply Officer has suspended the licence by order dated 8.7.2015. It is contended that this order was challenged before the appellate authority, Deputy Commissioner of Supplies and by order dated 8.7.2015 order of suspension was set aside by Deputy Commissioner of Supplies. It is contended that in anticipation that the parties who are behind the aforesaid action may challenge the order of Deputy Commissioner and get some order, caveat was filed before the Hon'ble Minister on 21.10.2015. It is contended that in spite of caveat, the Hon'ble Minister granted stay to the order made by Deputy Commissioner and it is communicated by the Disk Officer of the Department to the petitioner.

4. It is the case of petitioner that present respondent No. 5, who had raised grievance before the authority is not card holder of the shop of the petitioner and so, he has no locus-standi. It is the case of petitioner that his licence was suspended without giving notice and opportunity to explain and so, the order was set aside by Deputy Commissioner and the Hon'ble Minister has committed error in setting aside the order made by Deputy Commissioner. Thus, the petitioner wants to run the shop

when inquiry against him is going on.

5. The record shows that in January 2014 due to the order made by Lokayukta, inquiry was conducted and District Supply Officer had informed to Lokayukta that there was no substance in the allegations. In that regard, there is a copy of letter sent to Lokayukta by the District Supply Officer on 20.1.2014. The record shows that then one M.L.A. took interest in the matter and at his instance, again order was made to make inquiry in May 2015. Then report was submitted in July 2015 and following irregularities are noticed.

(i) Many card holders had left the village long back, but their names are still appearing in the register of the shop. Both foodgrains and kerosine are shown to be supplied to these persons, who had already shifted to other place. The quota in respect of these persons was collected by the petitioner and the said quota is not available in the shop and so, inference is there that the said quota is misappropriated.

(ii) On 6.6.2015, shop of the petitioner was found to be closed, but there was no intimation and no board was kept in front of the shop to show the reason. In respect of this incident video shooting was also

done.

6. In the past also, in addition to aforesaid irregularities, other irregularities were noticed by the authority and it was noticed that even the dead persons were shown as card holders and quota in respect of those persons was distributed. One Tahsildar had created record that he had recorded statement of person when he was already dead. So, the inquiry was not conducted properly in the past.

7. On the basis of aforesaid record and circumstances, the District Supply Officer has made order of suspension. Following reasons are given in the order of suspension.

(a) The weights and measures of the shop were not checked and they were not approved by the concerned authority.

(b) No list of card holders was maintained in the shop.

(c) No samples of foodgrain supplied by the department were kept.

(d) No complaint book was maintained.

(e) In register of distribution apparently wrong and false entries are made to show that the distribution

tallied with the quota collected.

(f) No receipts of cash taken for selling the ration were given in many cases and to some customers 15 k.g. wheat was given, but to some others 20 k.g. of wheat was given. Thus, the distribution was not as per the scheme.

(g) There were similar irregularities in respect of distribution of sugar and kerosene and in respect of these goods also cash receipt book was not maintained and it was not possible to ascertain as to whether this quota was really distributed to the card holders

(h) There were some cash memos available, but there were thumb impressions in those cases and the persons were not identified.

8. The Deputy Commissioner set aside the aforesaid order made by the District Supply Officer by observing that opportunity to explain aforesaid things was not given to present petitioner. Surprisingly, the Deputy Commissioner mentioned only fault of inspecting staff and set aside the order of suspension. In view of these circumstances, the Hon'ble Minister has stayed the order made by the Deputy Commissioner. It cannot be disputed that Hon'ble Minister, the highest authority

in that line has such power even when caveat is filed. Inquiry is going on and there are serious allegations against the petitioner. There is no provision of law which requires giving of opportunity to explain the things before making order of suspension during the inquiry when there are serious allegations. In such cases, a person like petitioner cannot be allowed to operate shop and so, no fault can be found in the order made by the District Supply Officer and by the Hon'ble Minister. In the result, petition stands dismissed. Civil Application is disposed of.

[T.V. NALAWADE, J.]

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