

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

Writ Petition No. 5873 of 2015

[Radhabai Mahila Bachat Gat Mukutban, Tq. Zari Zamni, Dist. Yavatmal
through its President Supayat Sahikh Masud Sahikh Vs. The State of
Maharashtra through Hon'ble Minister for Food and Civil Supplies Dept.
and ors.]

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri Anand Deshpande, Advocate for the petitioner
Shri P. V. Bhoyar, AGP for the respondent nos. 1 to 3

CORAM : Prasanna B. Varale, J.

DATE : 9-2-2016.

Heard Shri Deshpande, learned counsel for the petitioner and Shri Bhoyar, learned Assistant Government Pleader for the respondent nos. 1 to 3.

Though respondent no. 4 is served, none appears for the respondent no. 4. As limited controversy is involved in the petition which is referred to in the order passed by this Court dated 21-10-2015, notice of final disposal was issued. The petition is taken up for hearing and final disposal.

It is the submission of the learned counsel for the petitioner that the petitioner society is a society of women and two members of the society are widows. It is submitted that in response to the proclamation for distribution of license of the fair price shop, the petitioner – society submitted its claim. The District Supply Officer on assessment of claims, granted the license in favour of the petitioner – society. The submission of Shri Deshpande,

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learned counsel is that the petitioner-society was running fair price shop and there was no complaint in the inspections of the Inspectors from the District Supply Office. It is submitted that the respondent no. 4 preferred an appeal before the Commissioner (Supply) raising various grounds. The Commissioner (Supply), Amravati Region found no favour with the appeal presented by the respondent no. 4 and maintained the order passed by the District Supply Officer dated 4-2-2014. Being aggrieved by the said order, the respondent no. 4 preferred the revision before the Hon'ble Minister. The Hon'ble Minister partly allowed the revision. Order passed by the Commissioner (Supply) dated 28-1-2015 and the order passed by the District Supply Officer was quashed and set aside and it was directed to issue the license in favour of the respondent no. 4 - society for running the fair price shop.

Shri Deshpande, learned counsel submitted that as there was no complaint against the petitioner-society, in whose favour the District Supply Officer granted the license to run fair price shop by order dated 4-2-2014 and as the priority ought to have been given to the petitioner-society in view of the judgment of the Apex court, the order passed by the Hon'ble Minister is unsustainable.

Per contra, it is submitted by the learned Assistant Government Pleader that the petitioner is misreading the judgment of the Apex Court. Learned Assistant Government Pleader further submits that

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though the Sub Divisional Officer granted the license in favour of the petitioner-society, the Hon'ble Minister on the basis of the record found that in assessment of the proposals, the respondent no. 4 – society is more economically viable than the petitioner-society. Learned Assistant Government Pleader thus supports the order passed by the Hon'ble Minister.

On the backdrop of the above submissions and on perusal of the material placed on record, it reveals that in response to the proclamation, six claims were received by the District Supply Officer. The District Supply Officer though referred that there was no resolution passed in favour of the petitioner-society in spite of communication forwarded to the Block Development Officer and as there was an urgency on the backdrop of ensuing Food Safety Act, the license is granted in favour of the petitioner-society. The order placed on record show that the petitioner-society was having an amount of Rs. 21,000/- in the bank account whereas the respondent no. 4 – society having an amount of Rs. 69,255/- in its bank account. The Hon'ble Minister considering these aspects found that respondent no. 4 – society was economically viable than the petitioner-society. The other ground which was raised before the Hon'ble Minister was of requirement of resolution to be passed by the Gram Sabha in view of the Government Resolution. It was not in dispute that the resolution was not passed in favour of the

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petitioner-society as it reflects from the order of the District Supply Officer wherein it is clearly stated that there was no resolution received by the District Supply Officer in spite of the communication forwarded. Thus, on these two grounds, the Hon'ble Minister arrived at a conclusion and partly allowed the revision. No fault can be found in the order passed by the Hon'ble Minister.

The other ground raised by the learned counsel Shri Deshpande is on the basis of the Apex Court decision, the order passed by the Hon'ble Minister is not sustainable. It was the submission of the learned for the petitioner that priority ought to have been given to the society of the petitioner as two members of the petitioner-society are widows. The order passed by the Apex Court on 10-5-2010 in I.A. No. 90 in Writ Petition (C) No. 197/2001 is placed on record at annexure – A in the case of ***People's Union for Civil Liberties Vs. Union of India and ors.*** The order reads thus :

“We have heard learned counsel for the parties.

As an interim measure, the State of Maharashtra is permitted to issue licences for Fair Price Shops and Kerosene retail shops to Self Help Groups. They may distribute it through Gram Panchayat, Co-operative Society, Women/Co-operative Society run by women, Ex-Army Co-operative Society, Handicapped, Widows and greater priority would be given to the Widows of Army men.

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(emphasis supplied)

It was the attempt of Shri Deshpande, learned counsel for the petitioner that as per the Apex Court order, priority ought to have been given to the petitioner-society. The order of the Apex Court clearly shows that the State was directed to issue licences for fair price shops and kerosene retail shops to Self Help Groups and the distribution is through Gram Panchayat, Co-operative Society, Women/Co-operative society run by women, Ex-Army Co-operative Society, Handicapped, Widows and the greater priority to the society of widows of Army men. It is not even the case of the petitioner that petitioner-society is the society of widows but the petitioner is Self Help Group of women comprising ten members and out them two are widows. Thus, attempt of Shri Deshpande to submit that priority ought to have been given to the petitioner-society in view of the Apex Court judgment cannot be accepted. Considering all these aspects, in my opinion, the order passed by the Hon'ble Minister needs no interference. The petition thus, being meritless, deserves to be dismissed and the same is dismissed.

JUDGE

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