

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

WRIT PETITION NO. 2812 OF 2016

RAFIUDDIN NASIRUDDIN SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.U.R. Aute, Advocate h/f Talekar & Associates for the petitioner

Mr.S.W.Mundhe, AGP for the respondent Nos. 1 to 5/State

**CORAM : S.V. GANGAPURWALA &
S.M. GAVHANE, JJ.**

DATED : 07.12.2017

P.C. :-

. In Ward No.41 of Aurangabad city the communication is issued to the petitioner stating that the Fair Price Shop has to be allotted to Self Help Group Only. The petitioner's application cannot be considered. Mr.Aute, learned Advocate submits that normally the condition is to allot the Fair Price Shop to the Self Help Groups but in areas where Self Help Group are not available for allotment of the Fair Price Shop then shops are to be allotted as per priorities laid down under the Government Resolution as per order dated 28.01.1992 issued by the Food and Civil Supply Department under the provisions of Essential Commodities Act, 1955. The impugned communication is contrary to the order dated

28.01.1992.

2. Learned counsel for the petitioner submits that the petitioner is handicapped persons.

3. Learned AGP submits that the priorities have been fixed under the Essential Commodities Act, 1955 for allotment of Fair Price Shop. The said priorities have to be first exhausted and even in physical handicap category the priorities is to the physical handicapped woman.

4. We have considered the submissions. There cannot be dispute with the proposition that Fair Price Shop is to be allotted to Self Help Group as per policy of the Government. However, same policy further provides that in case the Self Help Group is not available for allotment of Fair Price Shop then the Fair Price Shop is required to be allotted as per the priorities stated in the Essential Commodities Act, 1955 and Maharashtra Scheduled Commodities (Regulation of Distribution) (Amendment) order 1992. The priorities are fixed as under:

- a) Consumer Co-op. Societies of Woman.
- b) Other Consumer Co-op. Societies.
- c) Vividh Karyakari Seva Sahakari Sanstha at Village

Level.

- d) Persons from Scheduled Caste and Scheduled Tribes.
- e) Freedom Fighters.
- f) Ex-Service men (Including the Widow, son, unmarried daughter of serviceman till war action)
- g) Physically handicapped person.
- h) Project Affected Person.
- i) Others.

5. Naturally, the Government is bound to adhere to the priorities provided in the order issued under the Essential Commodities Act. The impugned communication does not refer to the priorities. In view of that the impugned communication is quashed and set aside.

6. In case the Self Help Group is not available for allotment of the Fair Price Shop in Ward No.41, Aurangabad then respondent No.1 would follow the priorities laid down in the order referred (Supra). In that case they will consider the application of the petitioner as per the priorities. The writ petition stands disposed of. No costs.

[S.M. GAVHANE, J.]

[S.V. GANGAPURWALA, J.]