

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3749 OF 2016

Shri. Ramchandra Annappa Patole,	]	
Age: 59 years, Occ: Agriculturist,	]	
R/o: Rampurwadi, Tal: Kavthe Mahankal,	]	
Dist: Sangli	]	]...Petitioner

Versus

1. State of Maharashtra	]	
Through its Ministry of Food, Civil Supplies	]	
& Consumer Affairs, Maharashtra State	]	
at Mumbai.	]	
2. Ld. Deputy Commissioner (Supply)	]	
Pune Region at Pune.	]	
3. Ld. District Supply Officer, Sangli,	]	
Dist: Sangli	]	]...Respondents

Mr. M. A. Patil for the Petitioner.
Mr. S. L. Babar, AGP for the Respondent-State.

CORAM : R. M. SAVANT, J.
DATE : 9th FEBRUARY, 2017

ORAL JUDGMENT

1 Rule. With the consent of the Learned Counsel for the parties made returnable forthwith and heard.

2 The writ jurisdiction of this Court is invoked against the order dated 03.02.2016 passed by the Revisionary Authority i.e. Hon'ble Minister for Foods, Civil Supplies & Consumer Affairs, Government of

Maharashtra. By the said order, the Revision Application filed by the Petitioner came to be dismissed and resultantly, the order dated 20.08.2014 passed by the Deputy Controller of Rationing and the order dated 05.03.2015 passed by the Deputy Commissioner (Supply) came to be confirmed.

3 It is not necessary to burden this order with unnecessary details having regard to the nature of the directions to be issued :-

Suffice it would be to state that on the ground of alleged irregularities committed by the Petitioner, which irregularities were to the effect of adjustment of card holders, complaints from two persons that they have not received food grains and non-distribution of sugar, wheat and rice to the extent mentioned in the impugned orders, the Deputy Controller of Rationing by his order dated 20.08.2014 had cancelled the licence granted to the Petitioner in respect of the fair price shop under the Public Distribution System (For short "PDS") and forfeited the security deposit. Prior to the said order dated 20.08.2014 passed, the Petitioner had filed his reply and dealt with the allegations which were stated in the notice. In so far as complaints by the two persons were concerned, it seems that an affidavit filed by the said two persons that they have never complained to the authorities was produced by the

Petitioner. In so far as the non-distribution of the food grains to the extent mentioned in the show-cause notice, the defence taken by the Petitioner was that on account of the late supply to the Petitioner he could not distribute the food grains in time. In so far as the adjustment of card holders is concerned, it was the defence of the Petitioner that the same was done by the authorities.

4 Aggrieved by the said order dated 20.08.2014 passed by the Deputy Controller of Rationing, the Petitioner filed an Appeal before the Deputy Commissioner (Supply), Pune Division, Pune. The Deputy Commissioner (Supply) adverted to the fact of the affidavit filed by the two persons who had complained that they have not received the food grains, who have stated in the affidavit that no such complaint was made by them as also adverted to the fact that non-distribution of the food grains was on account of the Petitioner receiving the said food grains late. However the Deputy Commissioner (Supply), on the ground that there were serious allegations against the Petitioner did not deem it appropriate to interfere with the order dated 20.08.2014 passed by the Deputy Controller of Rationing and dismissed the Appeal by order dated 05.03.2015.

5 The Petitioner aggrieved by the said order dated 05.03.2015

passed by the Deputy Commissioner (Supply), Pune Division, Pune, challenged the same by way of a Revision before the State Government. The Revision was heard by the Hon'ble Minister for Food, Civil Supplies & Consumer Affairs, Government of Maharashtra and by the impugned order dated 03.02.2016 dismissed the said Revision. The Revisionary Authority has virtually accepted the explanation put forward by the Petitioner in respect of the allegations made against him. However on the ground that the conduct of the Petitioner does not inspire confidence, the Revisionary Authority has deemed it appropriate to dismiss the Revision by the impugned order dated 03.02.2016.

6 Heard the Learned Counsel for the parties.

7 The Learned Counsel for the Petitioner would contend that the Authorities below have passed orders mechanically without going into the seriousness of the allegations made in the show-cause notice and the explanation which has been given by the Petitioner. The Learned Counsel for the Petitioner drew this Court's attention to the Circular dated 12.11.1991, which Circular has been issued by the State Government with the objective of streamlining and regulating the functioning of the fair price shops under the PDS. By the said Circular, the offences committed by the conductors of the said fair price shops

have been categorized into three categories namely, minor offences, middle level offences and serious offences. The said Circular also postulates the action to be taken in respect of each of the category of offences and the punishment that can be imposed in respect of each of the category of the offences. It was therefore the submission of the Learned Counsel that the Revisionary Authority oblivious of the said Circular has imposed the punishment of cancellation of the licence of the fair price shop to the Petitioner when according to the Petitioner the allegation would only constitute a minor offence or at the most a middle level offence.

8 Per contra, the Learned AGP Mr. S. L. Babar would support the impugned order. It was the contention of Mr. S. L. Babar that having regard to the seriousness of the allegations that have been proved against the Petitioner that the punishment of cancellation of the licence of the fair price shop has been imposed upon the Petitioner. The Learned Counsel would contend that having regard to the said allegations, the punishment imposed on the Petitioner does not merit any interference at the hands of this Court in its writ jurisdiction under Article 227 of the Constitution of India.

9 Having heard the Learned Counsel for the parties, I have

considered the rival contentions. The moot question which arises for consideration in the instant case is whether the Petitioner was required to be visited with the punishment of cancellation of the licence of fair price shop to the Petitioner. As indicated above, the State Government vide Circular dated 12.11.1991 has sought to streamline and regulate the functioning of the fair price shops within the PDS. The said Circular inter-alia contains the guidelines within which the Deputy Controller of Rationing who is the Authority at the lowest level has to conduct himself. The said Circular also postulates the type of offences as also the action to be taken by the Authorities under the control order in respect of the breaches or offences committed by the holders of the fair price shop. Unfortunately, all the Authorities below have oblivious of the said Circular dealt with the matter. The Learned AGP fairly stated that the said Circular is in force. The Authorities though have adverted to the explanation given by the Petitioner in respect of the complaints made by the two persons as also in respect of the non-distribution of the sugar, wheat and rice have thereafter deemed it appropriate to cancel the licence of the fair price shop to the Petitioner.

10 In my view, the Authorities ought to have addressed the proceedings which were before them by having due regard to the Circular dated 12.11.1991 issued by the State Government. As indicated above,

the Deputy Commissioner (Supply) has adverted to the explanation given by the Petitioner which has also been accepted by the Revisionary Authority i.e. Hon'ble Minister of Foods, Civil Supplies & Consumer Affairs as can be seen from the impugned order. However as indicated above, the Hon'ble Minister on the ground that the Petitioner's conduct does not inspire confidence has not interfered with the orders passed by the two authorities below. In my view, therefore, the impugned order dated 03.02.2016 is required to be quashed and set aside and is accordingly quashed and set aside and the following directions are issued:-

- I) The Revision Application filed by the Petitioner against the order dated 05.03.2015 passed by the Deputy Commissioner (Supply) is remanded back to the Revisionary Authority i.e. Hon'ble Minister for Food and Civil Supplies, Government of Maharashtra for a de-novo consideration.
- II) The Revisionary Authority would consider the Revision on the touchstone of the said Circular dated 12.11.1991 and on such consideration record a finding as regards the category to which the breaches/offences

committed by the Petitioner would lie and thereafter impose appropriate punishment.

III) On remand, the Petitioner to appear before the Revisionary Authority on 20.02.2017. The Revision Application thereafter to be decided latest by 31.05.2017.

11 The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs.

[R.M.SAVANT, J]