

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 6267 OF 2017****Dharm Nirpex Mahila Bachat Ghat** **Petitioner****VERSUS****State of Maharashtra & Ors.** **Respondents**

Mr.Mukesh V.Aiya for the Petitioner.

Mr.S.H.Kankal, A.G.P. for the State – Respondent nos. 1 to 3.

Mr.Sanjeev R.Singh for the Respondent no.4.

CORAM : R.D.DHANUKA, J.**DATE : 18th DECEMBER, 2017****P.C.**

Rule. Returnable forthwith. Heard finally.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 11th November, 2016 passed by the learned Minister, Food Civil Supplies and Consumer Protection thereby setting aside the order of the Deputy Controller of Rationing, “F” Region and remanding the application filed by the respondent no.4 with an opportunity to rectify the irregularities by submitting various documents within one month and to reconsider to allot ration shop to the respondent no.4.

3. Pursuant to the advertisement issued by the Deputy Controller of Rationing, four applicants had applied for allotment of the rationing

shop including the petitioner herein and the respondent no.4. All the four applications were rejected on the ground that the same were not found in order in accordance with the requirement described in the advertisement. The petitioner did not challenge the order of rejection of the application made by the petitioner. The respondent no.4 however challenged the order of rejection of its application by filing a revision application before the learned Minister, Food and Civil Supplies and Consumer Protection. By an order dated 11th November, 2016, the Minister, Food and Civil Supplies and Consumer Protection allowed the said revision application filed by the respondent no.4 and remanded back the matter to the learned Deputy Controller of Rationing, "F" Region with an opportunity to file additional documents so as to rectify the irregularities and to reconsider the said application and to allot the rationing shop to the respondent no.4.

4. Learned counsel for the respondent nos. 1 to 3 and Mr. Singh, learned counsel for the respondent no.4 opposes this petition merely on the ground that the petitioner has no locus to challenge the order passed by the learned Minister in view of the fact that the petitioner has not challenged the order of rejection of the application filed by the petitioner by filing revision application before the learned Minister.

5. Mr. Aiya, learned counsel appearing for the petitioner invited my attention to the documents annexed to the writ petition including the impugned order passed by the learned Minister. He submits that the petitioner was impleaded as a party respondent no.3 to the revision application filed before the learned Minister by the respondent no.4

herein. He submits that the learned Minister has allowed the respondent no.4 to file additional documents which were not filed when the application was made by the respondent no.4 before the respondent no.1 which is not permissible in law. In support of this submission, learned counsel placed reliance on an unreported judgment of this Court delivered on 15th March,2000 in case of ***Gangaram Tukaram Chavan vs. The State of Maharashtra & Ors. in Writ Petition No.1327 of 2000*** and judgment of Division Bench of this Court in case of ***Rajendra R.Agarwal vs. Rationing Officer & Ors. in Writ Petition No.3319 of 1991*** holding that the irregularities if any, in filing the application cannot be allowed to be rectified subsequently after closer date of filing of such application. In my view the principles laid down by the Division Bench of this court in the aforesaid two judgments will squarely apply to the facts of this case. In my view the impugned order passed by the learned Minister is contrary to the principles laid down by the Division Bench of this Court in the aforesaid two judgments and thus deserves to be set aside.

6. Insofar as the issue of locus raised by the learned A.G.P. for respondent nos. 1 to 3 and Mr.Singh for respondent no.4 is concerned, it is not in dispute that the petitioner had not challenged the order passed by the respondent nos. 1, 2 and 3 rejecting its application. The fact however remains that the petitioner was also impleaded as a party respondent to the revision application filed by the respondent no.4. The petitioner is thus entitled to bring the illegalities committed by the learned Minister in the impugned order which is *ex-facie* contrary to the principles laid down by the Division Bench of this Court in the

aforesaid two judgments. In my view the impugned order passed by the learned Minister thus deserves to be set aside.

7. It would be in the interest of justice that the respondent nos. 1 to 3 are directed to issue fresh advertisement for inviting applications for allotment of the new ration shop in accordance with law. I, therefore, pass the following order :-

(a) The impugned order dated 11th November, 2016 annexed at Ex.A to the petition is set aside. The respondent nos. 1 to 3 are directed to issue fresh advertisement for allotment of new ration shop which was subject matter of the revision application before the learned Minister expeditiously.

(b) Rule is made absolute in the aforesaid terms.

(c) There shall be no order as to costs.

(R.D.DHANUKA, J.)