

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

WRIT PETITION NO. 10758 OF 2017

Mahila Sahakari Seva Consumer
Co-op. Society Ltd.

.. Petitioner

v/s.

State of Maharashtra & Ors.

.. Respondents

Mr. Mukesh V. Aiya for the petitioner
Mr. S.H. Kankal, AGP for respondent State

**CORAM : M.S. SANKLECHA, J.
DATED : 13th OCTOBER, 2017**

P.C.

1. At the request of Counsel, this petition is taken up for final disposal at the stage of admission.

2. This petition under Articles 226 and 227 of the Constitution of India challenges the order dated 11th September, 2017 passed by the respondent no.3 the Deputy Controller of Rationing, E/Region, Wadala, Mumbai. By the impugned order dated 11th September, 2017, the petitioner's authorization to conduct the rationing shop was suspended and the amount of Rs.14,798/- was ordered to be recovered after having forfeited the security deposit of Rs.5,000/-.

3. The grievance of the petitioner is that the impugned order dated 11th September, 2017 has been passed in complete breach of principles of natural justice in as much as it is a non-speaking order. It is submitted that its submissions have not been dealt with on the ground that the same are vague. Thus, the impugned orders needs to be set aside.

4. The basis of these proceedings is that on surprise inspection on 11th December, 2016 of the Petitioner's Ration Shop, the flying squad of the respondent no.3 found a shortage of rice to the extent of 80 kg and shortage of wheat to the extent of 265 kg. On inquiry with the attached ration card holders, it was noticed that there was a total misappropriation of rice and wheat to the extent of Rs. 14,798/-. Thus, a show-cause notice dated 23rd August, 2017 calling upon the petitioner to show-cause on the basis of the above facts, why its authorization to carry on Ration Shop should not be suspended. The petitioner in its reply dated 11th September, 2017 *inter alia* placed reliance upon the Circular issued by the State Government that in respect of commodities like food grains etc. a shortage of 1.50% during the stock taking, is permissible. It was submitted by

the petitioner that shortage of stock alleged is within 1.50% and, therefore, the notice be withdrawn.

5. On 11th September, 2017, the impugned order was passed without dealing with the aforesaid submission of the petitioner on merits. It even does not record the contention much less consider the same. All it states is that the explanation is vague. This clearly is a non-speaking order. Moreover, the impugned order suspends the authorization to run on Ration Shop without indicating the period of suspension. This is necessary in the absence of the impugned order indicating it is cancelled.

6. The order resulting in suspension of conducting the business of a ration shop is a serious issue and the same ought to be done after considering the response of the parties to the show-cause notice. The order if adverse, must be with reasons indicating why the explanation of the party is not acceptable.

7. In the above view, as the impugned order dated 11th September, 2017 is a non-speaking order, the same is quashed and set aside. The respondent no.3 the Deputy Controller of

Rationing, is directed to grant a fresh personal hearing to the petitioner and decide the show-cause notice dated 23rd August, 2017 afresh after following the principles of natural justice. The aforesaid exercise should be done by the respondent no.3 as expeditiously as possible and preferably within 2 months from today.

8. Mr. Kankal, learned Counsel appearing for respondent no.3 states that a personal hearing would be granted by respondent no.3 at his office to the petitioner on 31st October, 2017 at 11.00 a.m. Mr. Aiya, learned Counsel appearing for the petitioner states that the petitioner would appear at that time and no separate notice for hearing is required.

9. Accordingly, petition is disposed of in the above terms.

10. Parties to act on a copy of this letter duly authenticated by the Associate of this Court.

(M.S. SANKLECHA, J.)