

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5414/2017

Grampanchayat, Borgaon, through its Secretary, R/o Borgaon, Tah. Malegaon,
 Distt. Washim

..Vs..

The Hon'ble Minister, Food, Civil Supplies and Consumer Protection, Deptt.
 Mantralaya, Mumbai and others

AND WRIT PETITION NO.5415/2017

The Grampanchayat, Borgaon, through its Sarpanch, R/o Borgaon, Tah.
 Malegaon, Distt. Washim and another

..Vs..

The Hon'ble Minister, Food, Civil Supplies and Consumer Protection, Deptt.
 Mantralaya, Mumbai and others

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

Court's or Judge's orders

Shri S.D. Chande, Adv. for the petitioner.	..(in both petitions)
Shri N.R. Patil, A.G.P. for respondent Nos.1 to 3.	..(in W.P. No.5414/2017)
Shri N.R. Patil, A.G.P. for respondent Nos.1 to 4.	..(in W.P. No.5415/2017)
Shri S.R. Katangale, Adv. for respondent No.4.	..(in W.P. No.5414/2017)
Shri S.R. Katangale, Adv. for respondent No.6.	..(in W.P. No.5415/2017)

CORAM : S.C. GUPTE, J.

DATE : 18.8.2017.

WRIT PETITION NO.5414/2017

Heard learned counsel for the parties and the
 learned A.G.P. for the State.

The subject matter of challenge in the present
 writ petition is a revisional order passed by the Hon'ble
 Minister of Food, Civil Supplies and Consumer Protection
 on 29th August, 2016. The revision before the Hon'ble
 Minister concerns the order passed by the District Supply
 Officer on 28th January, 2015 issuing licence of a fair

price shop to the petitioner - Grampanchayat. That order was carried in appeal before the Deputy Commissioner (Supplies), Amravati Division, Amravati. The appeal challenging this order was filed by one Dnyanba Pundlik Landkar. By an order dated 11th January, 2016 this order of the District Supply Officer, Washim was set aside by the Deputy Commissioner (Supplies). By another order passed on the appeal of respondent No.4, who was also an applicant for fair price shop in the village, the Deputy Commissioner (Supplies) had earlier rejected the appeal and confirmed the order of the District Supply Officer on 28th January, 2015. A perusal of both these orders passed by the Deputy Commissioner, one confirming the order of District Supply Officer and the other quashing the order, indicates that the Deputy Commissioner has not considered the merits of the matter, that is to say, who amongst the applicants, i.e. the petitioner - Grampanchayat, and respondent Nos.4 and 5, all of whom were applicants for the fair price shop, is competent for issue of a licence for fair price shop. On these facts, the Hon'ble Minister has set aside the orders and directed the Deputy Commissioner (Supplies), Amravati Division, Amravati to consider the matter afresh. Though the remand to the Deputy Commissioner indicates that the appeal of respondent No.4 before the Deputy Commissioner will have to be heard afresh, there is no need for setting aside the order of District Supply Officer, Washim dated 28th January, 2015 since that very order is the subject matter of that

appeal before the Deputy Commissioner. In the premises, whereas broadly the order of the Hon'ble Minister of remanding the appeal to the Deputy Commissioner needs to be confirmed, there is at the same time no case for sustaining his order setting aside the order of District Supply Officer, Washim dated 28th January, 2015. Accordingly, the writ petition is **disposed of** by maintaining the impugned order of 29th August, 2016 to the extent of the remand by cancellation of the order of Deputy Commissioner dated 19th May, 2015. The cancellation of the order of District Supply Officer, Washim, dated 28th January, 2015 is, however, set aside.

The Deputy Commissioner (Supplies), Amravati Division, Amravati may decide the appeal of respondent No.4 on merits.

All rights and contentions of the parties, including the contentions regarding the validity of the proclamation, are kept expressly open for the Deputy Commissioner to decide.

WRIT PETITION NO.5415/2017

Since the companion writ petition, namely, Writ Petition No.5414/2017, concerns the appeal of Dyanba Pundlik Landkar challenging the same order, i.e. order of District Supply Officer, Washim dated 5th January, 2015, the order of the Hon'ble Minister remanding the matter to the Deputy Commissioner (Supplies), Amravati Division, Amravati is sustained.

The Deputy Commissioner shall decide even this appeal afresh in accordance with law.

Till these appeals are decided by the Deputy Commissioner (Supplies), the fair price shop, which is being run by the petitioner herein, namely, Grampanchayat Borgaon, is permitted to be run, though this arrangement shall be without prejudice to the rights of the parties and subject to the final outcome of the appeals. Writ petitions are **disposed of** in the above terms.

JUDGE

Tambaskar.