

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

19 WRIT PETITION NO. 4411 OF 2018

AMBACHONDI MAHILA BACHATGAT, SARUKWADI,
THROUGH SECRETARY USHA MANIKRAO BANAGAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Kiran B. Jadhavar.
AGP for Respondent/State: Mr. V. S. Badakh.
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CORAM : **V. L. ACHLIYA, J.**
DATE : 02nd May, 2018.

ORDER:

. By this petition filed under Article 227 of the Constitution of India, the Petitioner has challenged the order dated 12th June, 2017 passed by the Honourable Minister, Food and Civil Supply, State of Maharashtra in Revision No.1116/Case No.127/C.S. 21.

2 Heard the learned counsel for the Petitioner. Perused the order passed by the Respondent No.3 District Supply Officer, which was partly modified by the Respondent No.2 Deputy Commissioner (Supply), Aurangabad Division, Aurangabad and further the order passed by the Honourable Minister (Food and Civil Supply), the Respondent No.1, which is impugned by way of present writ petition.

3 In short, the Petitioner has approached with the case that the Petitioner is a Women Co-operative Society registered under the Co-operative Societies Act, 1960. On 8th January, 2008, Respondent No.3 issued proclamation inviting applications from Mahila Bachatgat from village Sarukwadi, Taluka Dharur, District Beed to run fair price shop for village Sarukwadi. In response to the proclamation issued inviting applications, in all three applications were received. Beside Petitioner, two other women organizations / Mahila Bachatgat submitted applications. It is the contention of Petitioner that the applications received were required to be scrutinized and allotment of fair price shop was to be made in terms of the standing orders passed by Respondent No.1 vide Government Resolution dated 12th November, 1999. According to the Petitioner, the applications of two other organizations should not have been accepted and held eligible for allotment of fair price shop as they were not from village Sarukwadi, but from the adjoining village. In the Special Gramsabha of village Sarukwadi, the subject of allotment of fair price shop was placed for consideration. Since the grand-father of the Secretary of Petitioner / Mahila Bachatgat was expired, the Petitioner could not attend the Gramsabha meeting convened on 2nd June, 2008. Request was made to postpone the meeting. In the meeting of Gramsabha held on 5th

June, 2008, it was resolved to allot the fair price shop to Respondent No.5 from village Mainwadi. The Petitioner challenged the decision of allotment of fair price shop to Respondent No.5 before the Deputy Commissioner (Supply), Aurangabad Division, Aurangabad and thereby challenged the order dated 29th August, 2008 passed by Respondent No.3 to allot the fair price shop to Respondent No.5. Vide order dated 26th March, 2009, Respondent No.2 partly allowed the appeal and referred back the matter to Respondent No.3 with certain directions. Being aggrieved by the order dated 26th March, 2009, the Petitioner preferred revision before the Respondent No.1 / Honourable Minister for Food and Civil Supply, State of Maharashtra. Vide order dated 12th June, 2017, the Respondent No.1 dismissed the revision petition and maintained the order passed by Respondent No.2. Being aggrieved, the Petitioner has preferred this petition.

4 The Petitioner has challenged the impugned order with contention that Respondent No.5 was not entitled for allotment of fair price shop for the reason that Respondent No.5 is not from village Sarukwadi, but from adjoining village Mainwadi, which is at a distance of more than 6 kilometers. It is the contention of the Petitioner that in terms of the directives of Government, the fair price shop ought to

have been allotted to the Mahila Bachatgat from the same village.

5 In my view, the petition filed by the Petitioner is devoid of merit and substance therein. The orders passed by Respondent Nos.1 and 2 are well reasoned and cannot be termed as perverse. There is no arbitrariness on the part of Respondent Nos.1 and 2 in passing the orders. The orders have been passed on due consideration of guidelines laid down in respect of the allotment of fair price shop. Under the guise of various challenges raised by the Petitioner to the decision of Respondent No.3, the Petitioner has succeeded to stop the allotment of fair price shop for a period of more than 10 years.

6 The order passed by Deputy Commissioner (Supply), Aurangabad Division, Aurangabad i.e. Respondent No.2 is well reasoned and passed on due consideration of rival contentions and policy decision and guidelines of Government in respect of allotment of fair price shop. While passing the order, Respondent No.2 has considered various Government Resolutions issued time to time providing guidelines for issuance of fair price shop. Since the proclamation was issued in the year 2008, the guidelines laid down by the Government Resolution dated 3rd November, 2007, were required to have been taken into consideration for allotment of fair price shop.

The said guidelines provides for seeking recommendation of Mahila Gramsabha to allot fair price shop to women Bachatgat or self finance Bachatgat. Since Respondent No.2 found that the decision to allot the fair price shop was taken in Gramsabha specially convened on 5th June, 2008, which was not in accordance with the directive contained in Government Resolution dated 3rd November, 2007, to obtain recommendation of Mahila Gramsabha the Respondent No.2 set aside the decision of Respondent No.3 and directed him to take fresh decision in the matter in terms Government Resolution dated 3rd November, 2007 i.e. to take appropriate decision in respect of allotment of fair price shop after seeking recommendation of Mahila Gramsabha. In this view, the orders passed by Respondent Nos.1 and 2 cannot be termed as perverse or arbitrary so as to call for interference in exercise of writ jurisdiction under Article 227 of the Constitution of India. In that view, the petition is devoid of merit and substance therein. Accordingly, the petition is dismissed.

7 Respondent No.3 i.e. the District Supply Officer, Beed is directed to immediately act as per the order dated 26th March, 2009 passed by Respondent No.2 and finalize the allotment of fair price shop before 30th June, 2018.

8 Copy of this order be sent for compliance to the District
Supply Officer, Beed.

[V. L. ACHLIYA, J.]

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