

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

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

Court's or Judge's orders

WRIT PETITION NO. 3904 OF 2018

WITH

WRIT PETITION NO.3905/2018

SUNIL KASHINATHRAO TARGUDE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr.B.M.Dhanure

AGP for Respondent No.1: Mr.S.K. Tambe

Advocate for Respondent No.4 :Mr.P.G. Gunale h/f
Mr.Pratap G. Rodge

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CORAM : V.L. ACHLIYA, J.

Dated: MAY 02, 2018

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By these petitions, the petitioner has challenged the orders dated 17.3.2018 which are subject matter of the respective petitions.

2. Heard learned counsel for the petitioner, respondent No.4 and learned AGP for the State.

3. Perused the report of Tahsildar, Mukhed dated 15.1.2011 separately submitted to the District Supply Officer, Nanded, order dated 11.2.2011 passed by the District Supply Officer,

Nanded and confirmed in Revision by the Deputy Commissioner (Supply), Aurangabad and further order passed by the Honourable Minister for State – Food & Civil Supplies Department, State of Maharashtra dated 17.3.2018.

4. In nutshell, it is the contention of the petitioner that the order passed by the District supply Officer and confirmed in Revision by the Deputy Commissioner (Supply), Aurangabad being passed upon the report submitted by the Tahsildar, Mukhed pointing out serious illegality on the part of respondent No.4, respondent No.1 i.e. State Minister for Food & Civil supplies should not have interfered with the order passed. It is contended that the impugned order dated 17.3.2018 passed by the Minister for Food & Civil Supplies is erroneous, without jurisdiction and unsustainable in law.

5. On the other hand, learned AGP and the counsel representing respondent No.4 supported the order passed by respondent No.1 and submitted that the order passed is reasoned and calls for no interference in exercise of writ jurisdiction under Article 227 of the Constitution of India.

6. On due consideration of orders passed, I am

of the view that the order dated 17.3.2018 passed by the Honourable Minister for State, Food & Civil Supplies Department, State of Maharashtra calls for no interference in exercise of writ jurisdiction under Article 227 of the Constitution of India. The order passed is reasoned and passed after due consideration of the grievance raised by respondent No.4. The licence of fair price shop was suspended without serving charge-sheet and giving an opportunity of hearing to respondent No.4, Honourable Minister for State i.e. the Revisional Authority has come to the conclusion that principles of natural justice violated in the matter of respondent No.4, which led to passing of the impugned order. By the impugned order, respondent No.1 has revoked the suspension of licence of respondent No.4 pending enquiry and directed the enquiry be conducted in the matter and based upon outcome of such enquiry further, action as contemplated under law be taken against respondent No.4. Since it is an admitted position that before passing the order of suspension of license, opportunity of hearing was not given to the respondent No.4, the order passed by respondent No.1 cannot be termed as perverse. It is apparent from the report of the Tahsildar that the allegations made against respondent No.4 were not verified before submitting the report. It was expected on the part of the Tahsildar before submitting report

verified the allegations by conducting preliminary enquiry. In the event of actionable material being found to take action against respondent No.4 the report supported with actionable material should have been submitted to District Supply Officer. Without collecting such material, the report has been directly sent to the District Supply Officer. The District Supply Officer though directed the enquiry to be conducted in the matter, but also passed order of suspension of licence, which was prima facie without affording an opportunity of hearing to the respondent No.4 and report of preliminary enquiry. In this view, the impugned order passed by the Honourable Minister cannot said to be unreasoned or improper or perverse or arbitrary or without jurisdiction so as to interfered in exercise of writ jurisdiction.

7. The learned counsel for the petitioner has referred and relied upon the decision of this Court in the case of **Nagorao Parshuram Sugave and Kisan vs The State of Maharashtra and others.**¹ I have perused the ruling cited. In my view, the ruling cited has no bearing on the facts of the present case.

8. In the result, the impugned order calls for no interference in exercise of writ jurisdiction. I am,

1 (2013) 3 ALL MR 859

therefore, not inclined to entertain the petition. The petition is dismissed.

Respondent No.2 is directed to conduct enquiry in the manner as directed vide order dated 17.3.2018 passed by the Honourable Minister for State, Food & Civil Supplies Department, State of Maharashtra by recording the statements of all the concerned including the card-holders and further to inspect the record and proceedings and take all other necessary steps to ascertain truthfulness as to allegations made against the respondent No.4. The enquiry in this behalf shall be completed before 30th June, 2018. In case, any actionable material is found, then after giving opportunity of hearing to respondent No.4, appropriate order be passed in the matter before 30th July, 2018. Needless to observe that the petitioner and all other concerned persons will be entitled to appear before the Enquiry Officer and produce actionable material.

Writ Petition stands dismissed with directions as above.

(V.L. ACHLIYA,J)