

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 13513 OF 2017

TUFANIBAI PRAKASH PAWRA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Rane Girish S.
AGP for Respondents: Mr. S P Tiwari

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CORAM : V.K. JADHAV, J.
Dated: January 31, 2018

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PER COURT :-

1. I find no substance in this writ petition.
2. Aggrieved by the order passed by the District Supply Officer, Dhule, dated 4.1.2016 and said order confirmed by the Deputy Commissioner (Supply), Nashik Division, Nashik by order dated 30.3.2016 and also by the concerned Hon'ble State Minister for Food, Civil Supplies and Consumer Protection on 15.4.2017, the petitioner has approached this Court by filing this writ petition.
3. Brief facts, giving rise to the present writ petition, are as under :-

aaa/-

a] Petitioner is the owner of Fair Price Shop No.177 at village Bhoiti Tq. Shirpur, District Dhule. On the basis of the information given by some villagers to District Supply Officer, Talathi of village Rohini went to village Ambe, Tq. Shirpur and found that 18 gunny bags consisting of food grain wheat kept in the shop of one Radheshyam Rathod. Said shop is owned by one Suklal Pawra. Thereafter, under the instructions of Tahsildar, one Ganesh Suryawanshi supply inspector, alongwith some other officials went there at village Rohini and found those gunny bags. Said Ganesh Suryawanshi and other persons accompanied him noticed that said gunny bags are of fair price shop and accordingly seized said bags consisting of 9 quintal of wheat under the panchnama. Thereafter, said Ganesh Suryawanshi alongwith the persons accompanied him went to the fair price shop of the petitioner, however, it was found closed in locked condition and therefore they could not inspect the record. On the basis of the complaint lodged by said Ganesh Suryawanshi, crime No.52/2014 for the offence 3 and 7 of the Essential Commodities Act came to be

registered at Police Station, Shirpur against the petitioner.

b] The District Supply Officer, Dhule has issued a show cause notice dated 14.5.2015 to the petitioner calling upon her to explain as to why action should not be taken against her for selling the food grains of fair price shop in the black market and further not making available the record for inspection. Petitioner has submitted an application dated 2.4.2015 (filed on 4.7.2015) stating therein that there is no question of keeping those bags of the fair price shop at village Ambe and that said wheat bags are not belonging to her fair price shop. It has been also stated in the said explanation that, other villagers conspired against her and accordingly a false crime came to be registered. She is a woman from Scheduled Tribe category and till the said crime was registered, there was no complaint against her shop. She has also stated in the explanation that on the day of incident she alongwith her husband had been to Jalgaon to look after her ailing

brother and, therefore, fair price shop was closed. After considering the entire aspect including the explanation submitted by the petitioner, crime is registered against the petitioner. The District Supply Officer by impugned order dated 4.1.2016 cancelled the licence of the fair price shop of the petitioner and, also forfeited the deposit amount. Being aggrieved by the same, the petitioner has approached the Deputy Commissioner, (Supply) Nashik Division, Nashik and thereafter to the Minister, however, the order passed by the District Supply officer came to be confirmed by them. Hence, this writ petition.

4. Learned counsel for the petitioner submits that, the petitioner is a woman of Scheduled Tribe category and there were no complaints against her prior to the said registration of the crime. On the day of the alleged incident, petitioner alongwith her husband had been to Jalgaon to see her ailing brother and there is no positive evidence to indicate that said 18 gunny bags consisting 9 quintals of wheat belonging to the fair price shop of

the petitioner. However, the authorities below and the Hon'ble Minister have not correctly appreciated the same.

5. Learned A.G.P. submits that, the petitioner has kept those 18 gunny bags consisting of 9 quintals of wheat in the shop of one Radheshyam Rathod and said shop is owned by one Suklal Pawra. Said bags are belonging to Fair Price shop of the petitioner and petitioner has kept those bags containing wheat for selling it in the black market. Learned A.G.P. submits that, though, opportunity was given to the petitioner, petitioner has avoided to place relevant record before the authorities and also before the Minister. The petitioner has not even bothered to place relevant documents before this Court in this writ petition to show that the petitioner, in fact, distributed entire food grains received in her fair price shop from the Government go-down. Learned A.G.P. submits that, on the other hand, learned counsel appearing for the petitioner contends that, petitioner was not called upon by the authorities to

submit the relevant record. Learned A.G.P. submits that, there is no substance in this writ petition and writ petition is liable to be dismissed.

6. It appears from the papers submitted with this writ petition that 18 gunny bags containing 9 quintals of wheat which is of fair price shop found in a shop of one Radheshyam Rathod at village Ambe and said shop is owned by one Suklal Pawra and it was given on rent to said Radheshyam Rathod. On the basis of the complaint lodged by supply inspector, crime came to be registered against the petitioner for having committed an offence punishable under section 3 and 7 of the Essential Commodities Act. Before lodging of the complaint, said Supply Inspector alongwith other officials went to the fair price shop of the petitioner to verify the record, however, petitioner kept her shop closed and under some or other pretext avoided inspection of the stock and relevant record. Even after issuance of the show cause notice by the District Supply Officer, petitioner has not produced any record before the District Supply

Officer pointing out thereby that she had in fact distributed entire food grains including wheat to the card holders and, as such, crime has been registered against her, falsely. On the other hand, learned counsel for the petitioner has repeatedly submitted that petitioner was never called upon by the authorities to produce the record. Even, the petitioner has not bothered to produce the said record before this Court in this writ petition.

7. In view of the above, I do not find any fault in the impugned order passed by the District Supply Officer, Dhule and confirmed by the Deputy Commissioner (Supply), Nashik Division, Nashik and the Hon'ble State Minister for Food, Civil Supplies and Consumer Protection. There is no substance in this writ petition. Writ Petition is hereby dismissed. No costs.

(V.K. JADHAV, J.)

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