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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2588 OF 2015

Ganesh M. Bachatgadh	...Petitioner
V/s.	
State of Maharashtra & Ors.	...Respondents

Mr.S.P. Kanuga i/b Ms.Sapna Nath for the Petitioner.

Ms.Geeta P. Sonawane, A.G.P. for the State – Respondent Nos.1 to 3.

Mr.Manoj A. Patil for the Respondent No.4.

CORAM : R.D. DHANUKA, J.
DATE : 5TH JUNE, 2018.

P.C. :-

1. Rule. Learned A.G.P. waives service for the respondent nos.1 to 3. Mr.Patil, waives service for the respondent no.4. By consent of parties the matter is heard finally.
2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 11th September, 2014 passed by the learned Minister in respect of authorization No.38-F-101 under the provisions of the Maharashtra Foodgrains Rationing Order, 1966 and Regulations made thereunder.
3. It is the case of the petitioner that the members of the petitioner who have established a Bachatgadh to run a fair price shop

in district Thane. The respondent no.4 was running a fair price shop under authorization No.38-F-101. By an order dated 28th May, 2003, the said authorization of the respondent no.4 was cancelled by the authority on account of malpractices alleged to have been indulged by him in running the fair price shop at Kalyan (West). The respondent no.4 admittedly filed a revision application before the learned Minister in view of impugning the said order dated 28th May, 2003. Learned Minister passed an order on 11th September, 2014 allowing the said revision application and directed the respondent no.4 to pay certain amount of penalty. He also permitted the respondent no.4 to shift the fair price shop from Kalyan (West) to Kalyan (East) at the distance of about 10 K.M.

4. Insofar as the petitioner is concerned, the petitioner has also filed a separate revision application against a separate order passed by the authority and for allotment of the fair price shop in respect of which the authorization of the respondent no.4 has been cancelled by the authority. The petitioner has impugned the said order passed by the learned Minister on the revision application filed by the respondent no.4.

5. Mr.Patil, learned counsel appearing for the respondent no.4 raises a preliminary objection to the petitioner filing this petition on the ground that the petitioner was not a party to the said revision

application filed by the respondent no.4 and thus cannot be allowed to challenge the order passed by the learned Minister under Article 227 of the Constitution of India.

6. Mr.Kanuga, learned counsel appearing for the petitioner invited my attention to the documents annexed to the petition and would submit that the authorization of the respondent no.4 was cancelled by the learned Controller of Rationing on the ground that the respondent no.4 was indulging in black marketing activities while running the said fair price shop. He submits that after a period of 11 years, learned Minister could not have entertained the said revision application and that also by permitting the respondent no.4 to shift the said fair price shop from Kalyan (West) to Kalyan (East) against the policy of the State government.

7. Insofar as the issue of maintainability raised by the respondent no.4 is concerned, it is submitted by the learned counsel that the petitioner is Mahila Bachatgadh who have been established to run the fair price shop in district Thane and is interested in allotment of the said fair price shop which was allotted to the respondent no.4 and whose authorization was cancelled by the learned Controller of Rationing.

8. Mr.Patil, learned counsel for the respondent no.4 submits that the learned Minister was convinced that the order passed by the

learned Controller of Rationing shall be set aside by imposing certain conditions upon the respondent no.4 and thus this Court cannot interfere with the impugned order passed by the learned Minister in this writ petition filed by the petitioner. Learned counsel for the respondent no.4 could not satisfy this Court, how the learned Minister could have interfered with the impugned order passed by the learned Controller of Rationing on 28th May, 2003 after expiry of 11 years. Be that as it may, a perusal of the order passed by the learned Minister clearly indicates that the learned Minister has totally overlooked the seriousness of the findings recorded by the learned Controller of Rationing against the respondent no.4 while cancelling his authorization. A perusal of the order indicates that the learned Minister has taken a very casual approach while entertaining the revision application filed by the respondent no.4 and has overlooked the Government policy.

9. Insofar as the issue of locus raised by the respondent no.4 is concerned, since the petitioner is also one of the party interested in the allotment of the said fair price shop, which was allotted to the respondent no.4 and which authorization was cancelled on the ground that the respondent no.4 had indulged in black marketing, the petitioner is entitled to file this petition under Article 227 of the Constitution of India. There is no substance in the submission of

Mr.Patil, learned counsel for the respondent no.4 that the petitioner has no locus to file this petition.

10. In my view, the impugned order passed by the learned Minister is totally illegal and deserves to be set aside.

11. I therefore, pass the following order :-

a). The impugned order dated 11th September, 2014 passed by the learned Minister is quashed and set aside. The revision application filed by the respondent no.4 is dismissed.

b). The Rationing Authority is directed to allot the said ration shop in accordance with law.

c). Rule is made absolute in aforesaid terms.

d). There shall be no order as to costs.

(R.D. DHANUKA, J.)