

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

913. WRIT PETITION No. 2524 of 2019

Pandurang S/o Balaji Biradar,
age 56 years occupation agriculture
R/o Waghdari Taluka Udgir District Latur.

...Petitioner

VERSUS

1. The State of Maharashtra
Through : The Secretary,
Food Supply Department,
Mantralaya, Mumbai.
2. The Deputy Commissioner,
Supply Department, Aurangabad
3. The District Supply Officer,
District Latur.
4. The Tahsildar,
Tahsil Office, Udgir
Taluka Udgir Dist. Latur.
5. Damodhar S/o Sheshrao Udgire,
age 46 years occupation business
R/o Waghdari Taluka Udgir District Latur.

...Respondents

Mr. Sachin S. Randive, Advocate for petitioner
Mr. G.O. Wattamwar, Asstt.Govt.Pleader for respondents no.1to4
Mr. M.A. Kulkarni, Advocate, holding for Mr. A.M. Kulkarni,
Advocate for respondent no.5

CORAM : SUNIL P. DESHMUKH, J.

DATE : 26th February, 2019

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally with consent.

2. Learned counsel for petitioner points out that upon complaint against licence holders of fair price shop for various irregularities in supplying commodities, inquiry twice has been made and initially, licence of respondent no.5 had been suspended and the same later on had been cancelled by respondent no.3. Respondent no. 5 had preferred further appeal before respondent no.2 - Deputy Commissioner, who with reasoned order had confirmed revocation of the licence in favour of respondent no.5. In the proceedings before respondent no.1, however, all the orders are set aside. The matter had been cursorily dealt with. He submits that order falls short of application of mind to the factual and legal situation involved in the matter.

3. On the other hand, learned counsel appearing for respondent no.5, however, contends that looking at the nature of allegations and the reasons which have weighed with the authority, respondent no.1 had taken a lenient view in the matter since livelihood of respondent no.5 is dependent on the licence of fair price shop.

4. Learned Assistant Government Pleader purports to support the order, however, is not in a position to show as to how impugned order can be said to have been passed on merits.

5. Perusal of impugned order, particularly, paragraph no.7 therein, would show that besides referring to the contentions on behalf of respondent no.5, since livelihood of respondent no.5 is dependent on the licence, it had been considered expedient to grant one more opportunity to the petitioner/respondent no.5. While such an approach in the matter concerning supply of commodities would not be proper, matter will have to be looked into more diligently as the nature of licence would require. Objective leniency may be possible, however, proper facts and circumstances ought to be taken into account. In the present case, orders fall short of showing application of mind to vital aspects involved in the matter and thus, is rendered unsustainable.

6. In view of aforesaid, the writ petition is allowed. Impugned order is set aside remanding matter to respondent no.1 for reconsideration of proceedings initiated by respondent no.5 and the same would be decided as expeditiously as possible.

7. Parties to appear before the authority on 12th March, 2019 and shall abide by the schedule of respondent no.1 and that would obviate issuance of notices to the parties.
8. Rule is made absolute in aforesaid terms.

(SUNIL P. DESHMUKH)
JUDGE.

Madkar