

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

WRIT PETITION NO. 8364 OF 2019

**HIRABAI GULABRAO SOLAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioner : Shri N. B. Khandare
AGP for Respondent No. 1 to 3 : Shri N. T. Bhagat
Advocate for Respondent Nos. 4 and 5 : Shri S. S. Thombre

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 13th AUGUST, 2019.

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PER COURT :

1. The petitioner, who has lost her license for operating the fair price shop, is aggrieved by the order passed by the Honourable Cabinet Minister for Food, Civil Supplies and Consumer Protection, State of Maharashtra, dated 26/11/2018. The Cabinet Minister has reviewed the earlier order of the Honourable State Minister dated 28/03/2018, by which, the fair price shop license of the petitioner was restored.

2. Shri Thombre, learned Advocate appearing on behalf of respondent Nos. 4 and 5 submits that the impugned order is

fair and proper and the Honourable Cabinet Minister rightly noticed the unfair means adopted by the petitioner and therefore, set aside the order of the Honourable State Minister. The District Supply Officer, Beed had suspended the license of the petitioner pending enquiry in accordance with the Government Resolution dated 12/11/1991.

3. The learned AGP submits that under Order 24(3) a review is permissible at the level of the Honourable Minister under *Maharashtra Scheduled Commodities (Regulation of Distribution) Order 1975*. Though he supports the impugned order, he is unable to indicate as to whether the Honourable Cabinet Minister can cause a review of the order passed by the Honourable State Minister.

4. It is well settled that a review can be entertained by the same authority which has passed the order, provided the law prescribes a review. Unless the said Minister is not available and another Minister has occupied the same position, a review application or proceeding has to go before the same authority.

5. In view of the above, the impugned order dated

26/11/2018 is quashed and set aside and this petition is partly allowed.

6. The petitioner presently has her fair price shop license suspended in view of the order passed by the District Supply Officer. The same position shall be continued. The District Supply Officer, Beed shall issue notices and shall comply with the guidelines set out in the G.R. dated 12/11/1991 for conducting the detailed enquiry against the petitioner and pass appropriate orders. Needless to state, his order shall contain reasons pursuant to such enquiry.

7. The petitioner shall be duty bound to produce the entire record before the District Supply Officer for his perusal and shall fully cooperate in the enquiry, which shall be preferably concluded within a period of four months from today. Needless to state, the District Supply Officer shall consider the views and statements of the card holders and especially of the complainant - card holders.

(RAVINDRA V. GHUGE, J.)

shp/-