

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 4959 OF 2018

Nurjhan w/o Rajek Shaikh

Petitioner

Versus

The State of Maharashtra  
& others

Respondents

Mr. S.T. Veer, Advocate for the petitioner.

Mrs. P.V. Diggikar, AGP for respondents no. 1 to 4.

Mr. C.R. Thorat, Advocate for respondent no. 5.

Mr. S.P. Koli, Advocate for respondent no. 6.

**CORAM : M.S. KARNIK, J.**

**DATE : 19<sup>th</sup> August, 2019.**

**PER COURT :**

1. Heard learned counsel for the respective parties.
2. The petitioner has challenged order dated 26.04.2018 passed by the Honourable Minister of State for Food, Civil Supply and Consumer Protection Department.
3. It is the contention of learned counsel for the petitioner that petitioner's husband was granted licence to run fair price shop by order dated 08.04.2005, which is at page no. 25 of the petition. Thereafter, as the petitioner's husband was not keeping good health, he had applied for transfer of the licence in the name of the petitioner. By an order dated 29.07.2017, which is at page no. 28 of the petition, the District Supply Officer, in view of Government Resolution dated 22.12.1997 and other Government Resolutions, transferred the fair price shop licence in the name of the petitioner.

It is the contention of the petitioner that since then, the licence is in her name and she is running the said fair price shop.

4. It appears that respondent no. 5, after about 11 years, has filed a proceeding before the Honourable Minister challenging the order dated 08.04.2005 whereby licence to run fair price shop was granted in favour of petitioner's husband.

5. In paragraph no. 11 of the reply filed by petitioner's husband before the Honourable Minister, it was specifically pointed out that the shop in question is permanently transferred in favour of the petitioner by order dated 29.07.2017 and that the said order still holds the field.

6. I have gone through the order passed by the Honourable Minister. There is no dispute that by order dated 29.07.2017, the shop has been transferred in favour of the petitioner pursuant to the policy of the Government which can be found in Government Resolution dated 22.12.1997. The order passed by the Honourable Minister cancelling the order dated 08.04.2005 will affect the rights of the petitioner and therefore, it was necessary for respondent no. 5 to have made the petitioner as party to the proceeding before the Honourable Minister. Even though it was brought on record by petitioner's husband that the shop has been transferred in the name of the petitioner, the petitioner was not made party to the proceeding before the Honourable Minister. Only on this ground, the impugned order passed by the Honourable Minister deserves to be set aside.

7. Learned counsel for respondent no. 5 submits that he would implead the petitioner as party respondent to the proceeding/revision before the Honourable Minister.

8. In this view of the matter, the order passed by the Honourable Minister is set aside. It is directed that the revision be heard afresh on its own merits and in accordance with law. Petitioner as well as respondents no. 5 and 6 undertake to appear before the Honourable Minister of State for Food, Civil Supply and Consumer Protection Department on 17.09.2019 at 3.00 pm. The Honourable Minister is at liberty to fix further schedule of hearing. Respondent no. 5 to take steps to implead petitioner as party respondent to the revision. All contentions of the parties including the plea of limitation are kept open. The revision be heard and decided on its own merit and in accordance with law.

9. Interim relief granted by this Court to continue till the decision in the revision.

10. Writ petition stands disposed of accordingly.

**( M.S. KARNIK, J. )**

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