

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

LETTER PATENT APPEAL NO.3 OF 2013
IN
WRIT PETITION NO.7982 OF 2012

Santoshimata Mahila Bachat Gut,
Bhausahab Nagar, Tq.Newasa,
District Ahmednagar,
Through its President,
Smt. Alka Chilu Kamble,
Age : - years, R/o. As above.

...Appellant
(Orig. Petitioner)

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Department of Food, Civil
Supplies and Consumer Protection,
Mantralaya, Mumbai.
- 2) Deputy Commissioner (Supply),
Ahmednagar.
- 3) District Supply Officer,
Ahmednagar.
- 4) Tuljai Mahila Swayamsahayata
Bachat Gat, Bhausahab Nagar,
Through its President,
Smt.Savita Chandrakant
Darandale.

...Respondents
(Orig. Respondents)

Advocate for Appellant : Mr. Sangeet L.V.
AGP for Respondents No.1 to 3 : Mr. Dande S.S.
Advocate for Respondent No.4 : Mr. Bhandari A.P.

CORAM : **SUNIL P. DESHMUKH &
S.M. GAVHANE, JJ.**
DATE : **06-06-2019**

ORAL JUDGMENT : (PER: SUNIL P.DESHMUKH, J.)

1. Heard the learned counsel appearing for the parties at

quite some length. While passing interim order on 06-02-2013, Division Bench of this Court has observed thus:

"13] It is thus evident that the ground on which the revision application has been allowed by the Honourable Minister has come in existence after the judgment of the Deputy Commissioner.

14] The learned Single Judge, while holding that the Honourable Minister's order cannot be faulted has observed thus:

"3. ...Honourable Minister, I do not think that he has exceeded his jurisdiction by reappreciating the facts of the case. Selection of Bachat Gat as per the norms mentioned in the Government Resolution dated 3rd November, 2007 is a matter of "Subjective" satisfaction of the Authorities. In my view, upto the revisional level, the Authorities had ample scope of interference. There is hardly any legal issue involve between the parties. The question was whether the respondent-Bachat Gat is more meritorious than the petitioner-Bachat Gat. The Honourable Minister took a "subjective" decision and selected the Respondent – Bachat Gat."

15] The observation of the Learned Single Judge that the Honourable Minister's judgment was based on subjective satisfaction, we apprehend, could really sustain in the eye of law. In fact, the Honourable Minister was hearing a statutory revision application. He was adjudicating the rights of the parties.

16] It was necessary for Honourable Minister to hold that the judgment is rendered by the Deputy Commissioner, exercising powers in appeal under Clause 15 of the Maharashtra Scheduled Commodities Retail Dealer's Licencing Order, 1979, was illegal, before orders of subordinate authorities were to be interfered.

17] Unless the Honourable Minister could hold that the order is contrary to law, he could never have assumed and resorted to the revisional jurisdiction.

18] Said illegal order, passed by the Honourable Minister is upheld by the learned Single Judge, that too, by holding that the decision is to be rendered based on "subjective satisfaction".

20] This court has to see that it is a case wherein lifting the veil was necessary to see as to whether Tuljai SHG is a kitchen affair of Darandale family."

2. Aforesaid observations depict, the matter would have to be considered by the Hon'ble Minister keeping in view aforesaid aspects.

3. In view of the same Letters Patent Appeal succeeds. Hon'ble Single Judge's order dated 05-11-2012 in Writ Petition No.7982 of 1012 is set aside.

4. Interim relief operating hitherto to continue to operate till disposal of the revision by the Hon'ble Minister. It is expedient that the Hon'ble Minister would dispose of the revision as expeditiously as possible, preferably within a period of four months from the date of receipt of writ of this order.

5. Parties to appear before the concerned Hon'ble Minister on 27-06-2019. Parties shall not insist upon separate notices in the remanded revision and matter accordingly be proceeded with by the Hon'ble Minister.

[S.M. GAVHANE, J]

[S.P. DESHMUKH, J.]

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