

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1413 OF 2018

Murlidhar Gopinath Bhadule .. Petitioner

Versus

District Supply Officer, Satara & Ors. .. Respondents

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- Mr. D.J. Deshmukh for the Petitioner
 - Ms. P.N. Diwan, AGP for Respondent Nos. 1 to 3
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CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : JULY 16, 2019.

P.C.:

1. Heard learned counsel for the parties for final disposal of the petition.

2. The petitioner has challenged an order dated 5.5.2015 passed by the Hon'ble Minister (Food, Civil Supplies and Consumer Protection) and further order dated 24.9.2015.

3. Brief facts are as under:-

Petitioner was granted licence to run a fair price shop at Village Nimsod, Taluka Khatav, District Satara. He was

operating the said shop under such licence. On account of certain alleged irregularities, the Deputy Commissioner of Civil Supplies, Pune cancelled the licence by order dated 16.8.2014. The petitioner sought revision of the said order in terms of Order 24 of the Maharashtra Scheduled Commodities (Regulation of Distribution) Order 1975. The then Minister of Food, Civil Supplies and Consumer Protection by an order dated 11.9.2014 set aside the cancellation of the petitioner's licence to run the fair price shop.

4. It appears that the then Sarpanch of the village after sometime later again raised the same issue before the Government by filing a revision petition. Such revision petition was entertained by the Minister. The petitioner was served with short notice of one day, hearing was closed on the same day i.e 4.2.2015. The petitioner supplemented his stand through written submission which was taken into action. The Minister passed order dated 5.5.2015 recalling the earlier order dated 11.9.2014 and reinstating the order of cancellation of the petitioner's licence. The petitioner,

thereupon sought review of such order which came to be dismissed by order dated 24.9.2015 primarily holding that he has no power to review.

5. Having heard the learned counsel for the parties, we are of the opinion that the order dated 5.5.2015 passed by the Minister was without jurisdiction. The facts as recorded would show that in terms of Clause 24 of the said orders, previously the Government had already exercised the revision powers and set aside the order of the Deputy Commissioner. Thereafter, it was not open for the Minister to reconsider the same order and recall it. This amounts to exercising powers of substantial review, which do not flow from Clause 24 of the said orders. It is settled through series of judgments on this Court and the Supreme Court that the judicial or quasi-judicial authority cannot exercise powers of substantive review unless so specifically granted under the statute. In the present case, no provision is shown for such substantive review. Only question is did Clause 24 authorize the Minister to act in the same manner. The answer has to be in the negative. Clause 24 pertains to power of revision

to be exercised either by the Commissioner or the Government against the order that is passed by the Collector or the Commissioner as the case may be. Such powers could be exercised either on application by the person aggrieved or even suo motu. However, such powers of revision cannot be confused with the powers of review. The impugned orders, therefore, are passed without authority and jurisdiction. The same are set aside. The original order dated 11.9.2014 stands reinstated.

6. Writ petition disposed of.

[S.J. KATHAWALLA, J.]

[AKIL KURESHI, J]