

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5251 OF 2014

Bhalchandra Narayan

....Petitioner

V/s.

The State of Maharashtra & Ors.

....Respondents

Mr. P.A. Pol a/w. Sharad S. Suryawanshi, Ranjit S. Hatkar i/b.
G.N. Salunke for the petitioner.

Mr. S.H. Kankal, AGP for respondent nos.1 to 3.

Mr. Balwant Salunkhe I/b. Mr. Balwant Patole for respondent
no.4.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 15th JANUARY, 2019.**

P.C.:

. With consent of the parties, petition is heard finally at the stage
of admission.

2. By this petition, filed under Article 227 of the Constitution of
India, the petitioner has challenged the order dated 03/03/2014
passed by the respondent no.4 – Dattatray Mangal Dinkar in Revision
Application filed by the respondent no.3.

3. Heard Mr. P.A. Pol, learned counsel for the petitioner, Mr. S.H.
Kankal, learned AGP for respondent nos.1 to 3 and Mr. Balwant
Salunkhe, learned counsel for respondent no.4. I have perused the

records and considered the submissions advanced by the learned counsels for the respective parties.

4. On 01/02/2013, the respondent no.3 had issued an advertisement for a new ration shop for village Asnoli, Tal. Shahapur, Dist. Thane. The petitioner had challenged the said advertisement before the respondent no.2 – the learned Minister for Food and Civil Supplies, Mantralaya, Mumbai on the ground that no units were available for new or additional ration shop as per the norms fixed by the Government by Resolution dated 09/06/2000. As per the directions of the respondent no.2, the respondent no.3 submitted a report stating that there was no need to have a second ration shop in the said locality. Hence, by order dated 08/05/2013, the respondent no.2 allowed the representation filed by the petitioner and cancelled the advertisement for allotment of second ration shop in the village.

5. The respondent no.4 thereafter filed a review application before the respondent no.2 seeking review of the order dated 08/05/2013. The respondent no.2 has reviewed the order on the basis of the subsequent report and permitted setting up of the another shop in the village and set aside cancellation of advertisement dated 21/01/2013.

The respondent no.2 also gave directions to the respondent no.3 to complete the process of setting up of second ration shop within a period of three months. Being aggrieved by the said order, the petitioner has filed the present petition.

6. It is not in dispute that the respondent no.4 who had filed the said Review Application was not a party to the proceedings which were disposed of by order dated 08/05/2013. The respondent no.4 was, therefore not competent to seek review of the said order. Furthermore, the order dated 08/05/2013 has been reviewed based on the subsequent report. It is also stated that the report was received after the hearing in the review application was concluded. The petitioner was not given further hearing after receipt of the said report. Hence, the petitioner did not have any opportunity to give his say or to challenge the said report. The impugned order is, therefore, in breach of principles of natural justice. Hence, the following order :-

(i) The petition is allowed.

(ii) The impugned order dated 03/03/2014 and the advertisement, if any, issued pursuant to the said order are hereby set aside.

(iii) It is made clear that this order will not prevent the respondents from issuing fresh advertisement for additional ration shop, if necessitated as per the subsequent reports, in accordance with law.

7. Rule made absolute in the above terms.

(SMT. ANUJA PRABHUDESSAI, J.)