

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4666/2019

Bhumeshwar B. Gabhane

..VS..

State & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V.R. Borkar, Advocate for the petitioner
Ms. K.R. Deshpande, AGP for the respondent/State
Ms. A.R. Taiwade, Advocate for the respondent no. 4

CORAM : Z.A.HAQ, J.

DATED : 17/07/2019

Heard.

The order passed by the Hon'ble Minister under the provisions of the Maharashtra Scheduled Commodities (Regulation of Distribution) Order, 1975 is challenged by the original complainant. According to the petitioner, the Hon'ble Minister has committed an error and has exceeded his jurisdiction by setting aside the orders passed by the District Supply Officer and Dy. Commissioner (Supplies), and restoring the licence of the respondent no. 4. According to the petitioner, while exercising jurisdiction under Clause 24 of the Order of 1975, the Hon'ble Minister has no power/authority to restore the licence cancelled by the District Supply Officer. To support the submission, reliance is placed on the judgment given in the case of Balbhim S/o Sukhdeo Limbkar vs. State of Maharashtra and others reported in 2014 (1) Mh.L.J. at page 579.

The learned AGP and the learned advocate for the respondent no. 4 who has put in appearance on caveat have supported the impugned order.

In the case of Balbhim S/o Sukhdeo Limbkar (supra), the Hon'ble Minister had confirmed the findings recorded by the subordinate authorities regarding misconduct by the licence holder and inspite of it, had restored the licence imposing fine on the licence holder. In those facts, this Court recorded that the Hon'ble Minister in that case had exceeded his jurisdiction by restoring the licence. In the present case, the orders passed by the subordinate authorities cancelling the licence are set aside. Once the orders cancelling the licence are set aside, the natural consequence is that the licence stands restored. In the facts of the present case, it cannot be said that the Hon'ble Minister has committed any error of jurisdiction. The judgment relied upon by the learned advocate for the petitioner does not assist him.

After going through the impugned order, I find that the Hon'ble Minister has rightly considered all the relevant aspects and finding that the enquiry conducted by the subordinate authorities was not proper and was in violation of the principles of natural justice, the orders cancelling the licence are set aside and it is directed that the enquiry be conducted properly within 3 months.

I see no reason to interfere with the impugned order.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

Ansari