

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

Writ Petition No.6930/2018
Manisha Ramteke Vs.State of Maharashtra

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

Court's or Judge's orders

Mr. A.R. Taiwade, Advocate for petitioner
Smt. Kalyani Deshpande, AGP for respondents No.1 to 3.

CORAM : MANISH PITALE, J.

DATED : NOVEMBER 22, 2019

By this writ petition, the petitioner has challenged order dated 14/08/2018, passed by the respondent No.1, whereby a challenge raised to order of cancellation of fair price shop license has been rejected and order of cancellation of license is confirmed. It is relevant that an order of suspension of license issued prior to such action of cancellation was also the subject matter of challenge in the very same proceeding and it appears that the order of suspension as well as order of cancellation of license have been confirmed by the impugned order.

2. The petitioner was holding a fair price shop license and on 02/05/2017, the same stood suspended by an order of respondent No.3 - District Supply Officer, Bhandara, on the ground that certain serious allegations had been levelled against the petitioner.

3. Thereafter, on 21/06/2017, the respondent

No.3 passed an order of cancellation of license. The petitioner had challenged the order of suspension of her license dated 02/05/2017, as well as order of cancelling her license by order dated 21/6/2017, before the respondent No.2 – Deputy Commissioner (Supply).

4. By order dated 10/07/2017, the respondent No.2 dismissed the revision application filed by the petitioner, thereby confirming the orders passed by respondent No.3 – District Supply Officer. Thereupon, the petitioner raised a challenge before the respondent No.1, which stood rejected by the impugned order.

5. The short ground of challenge raised in the present writ petition is to the effect that the order of cancellation of license was not sustainable, for the reason that there was clear violation of the principles of natural justice, in as much as the respondent No.3 did not supply copy of report of Tahsildar, which was the very basis for cancellation of license. It was submitted that the petitioner was deprived of an opportunity to meet the findings recorded in the report, which in turn had become the basis of the order of cancellation of license issued by respondent No.3. The learned counsel for the petitioner relied upon judgment of this Court in the case of **Meharbaba Mahila Bachat Gat Vs. State of Maharashtra and others in Writ Petition No.7786/2017, decided on 14/10/2019**. It has been held in the said judgment

that if a copy of report of the Tahsildar is not supplied to the licensee and the District Supply Officer proceeds to cancel the license on the basis of such report, the order of cancellation is vitiated and hence, rendered unsustainable.

6. The learned AGP had appeared on behalf of the respondents and it is submitted that a copy of report of Tahsildar could be supplied to the petitioner. It is submitted that the order of suspension of license of the petitioner ought not to be interfered with, till the question regarding cancellation of her license is decided on merits, even if the matter is remanded for fresh consideration.

7. Considering the facts of the present case, there cannot be any doubt about the fact that the principles of natural justice have been clearly violated because report of Tahsildar, which was the basis for order of cancellation of license was never supplied to the petitioner. Therefore, on this ground itself the order of cancellation of license ought to have been set aside and matter could have been remanded for fresh consideration before the respondent No.3. But, the respondents No.1 and 2 failed to appreciate this aspect of the matter while passing the orders against the petitioner.

8. In view of above, the writ petition is partly allowed. The impugned orders passed by the

respondents are quashed and set aside. Consequently, order dated 21/06/2017, cancelling license of the petitioner is set aside and the matter is remanded to respondent No.3 - District Supply Officer, for fresh consideration. The said respondent is directed to supply the copy of report of Tahsildar and further give an opportunity to her to raise her objections to the same, before considering the question of cancellation of her license.

9. At the same time, considering the allegations levelled against the petitioner, it would be in the interest of justice that order of suspension of license is maintained, till the respondent No.3 completes proceedings concerning the question of cancellation of license of the petitioner.

10. The respondent No.3 is directed to expedite the proceedings in the matter and to decide the same within a period of three months from today. Till such time the respondent No.3 decides the question of cancellation of license of the petitioner, the license shall remain suspended.

11. The writ petition is disposed of.

JUDGE