

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

WRIT PETITION NO. 458 OF 2018

Jamirkha Tayabkha Pathan
-vs-
State of Maharashtra and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri C. A. Babrekar, Advocate for petitioners.
Shri A. V. Palshikar, Assistant Government Pleader for
respondent Nos.1 to 3.
Shri P. S. Patil, Advocate for respondent No.4.

CORAM : A.S.CHANDURKAR, J.
DATE : September 03, 2019

Challenge raised in the present writ petition is to the order passed by the Honourable Minister in exercise of revisional jurisdiction under Clause-24 of the Maharashtra Scheduled Commodities (Distribution and Supply) Order, 1975. By that order the revision application preferred by the petitioner has been dismissed and the order forfeiting the security deposit that was furnished by the respondent No.4 has been maintained.

2. On the complaint made by the petitioner that there were certain shortcomings in running of the fair price shop by the respondent No.4, the District Supply Officer directed conduct of a proper inquiry into the matter. On the basis of such inquiry it was

noted by the District Supply Officer that the respondent No.4 was charging more amounts for the scheduled items. On that count the authorisation granted in favour of respondent No.4 was cancelled and the entire amount of security deposit was forfeited. In the appeal preferred by the respondent No.4 the District Supply Officer partly modified that order. He restored the authorisation but maintained the order directing forfeiture of security deposit. That order has been confirmed by the Honourable Minister.

3. Shri C. A. Babrekar, learned counsel for the petitioner submitted that in view of the statements made by the respondent No.4 and her son that higher amounts were being charged while selling the scheduled items, the order passed by the District Supply Officer was reasonable. The authorisation was rightly cancelled and there was no reason to interfere with that order. Merely on the ground that less than 50% of the card holders had not made any statement against the respondent No.4, the Deputy Commissioner (Supplies) has modified that order. He submitted that when there was no dispute that the scheduled items had been sold at higher price, strict action was rightly taken by the District Supply Officer. There was no question of granting further opportunity to the respondent No.4. Without considering this

aspect, orders passed by the District Supply Officer have been modified.

4. Shri P. S. Patil, learned counsel for the respondent No.4 and Shri A. V. Palshikar, learned counsel for the respondent Nos.1 to 3 supported the impugned order. It was submitted by Shri P. S. Patil that as less than 50% card holders whose statements were recorded did not support the case of the petitioner, the order cancelling the authorisation was modified. The petitioner was satisfied with the action taken after recording the statements which could be gathered from the statement of the petitioner himself dated 23/12/2016. However, even thereafter the petitioner persisted with making complaints against the respondent No.4. He further submitted that a specific ground was raised by the respondent No.4 challenging the statements attributed to the respondent No.4. The penalty imposed was reasonable not warranting any interference.

5. On hearing the learned counsel for the parties it is seen that the Deputy Commissioner (Supplies) has indicated the reasons for modifying the order passed by the District Supply Officer. As it was found that less than 50% of the card holders whose

statements were recorded did not support the stand of the petitioner, a lesser penalty of forfeiture of entire security deposit came to be passed. The letter issued by the petitioner himself indicates that he was satisfied with the action as taken. He however challenged the same thereafter which appears to be by way of an afterthought. Considering the reasons given by the Deputy Commissioner (Supplies) which had been found proper by the Honourable Minister, I do not find that there is any case made out to interfere in writ jurisdiction. By clarifying that it is open for the Authorities to take appropriate steps if any irregularities are found in future, the writ petition stands dismissed. No costs.

JUDGE