

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

WRIT PETITION NO.5296/2017

Gram Rakshak Bahuudeshiya Samajik Sanstha

..V/s..

Shri Suresh Ghinmane and others

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

Court's or Judge's orders

Shri S.V. Tadas, Advocate for the petitioner.
Shri A.D. Ramteke, Advocate for the respondent No.1.
Ms K.R. Deshpande, A.G.P. for respondent Nos.2 to 5.

CORAM : RAVINDRA V. GHUGE, J.

DATED : 23.1.2020.

1] The petitioner is aggrieved by the order dated 29.8.2016 passed by the Hon'ble Minister by which, he has reviewed his own earlier order dated 2.9.2015.

2] The petitioner makes a serious grievance against the Hon'ble Minister Shri Girish Bapat contending that in his earlier order dated 2.9.2015 he had found that respondent No.1 had indulged in unfair means while operating the fair price shop and, therefore, he did not deserve restoration of the license to operate such shop. A review application was filed by respondent No.1 and by entertaining the said review application, the same Hon'ble Minister has taken a diagonally opposite stand. He has allowed the review application, has imposed costs of Rs.5,000/- and has directed a re-enquiry by the District Supply Officer, Yavatmal.

3] The grievance of the petitioner is two fold. Firstly, that respondent No.1 has conducted the fair price shop in an illegal and irregular manner and there are several complaints by the card holders that the grains are not allotted to them. Secondly, the Hon'ble Minister does not have the power to review his own order.

4] I find that Order 24(2) of the Maharashtra Scheduled Commodities (Regulation of Distribution) Order, 1975 provides for the Government to *suo motu* cause a review or on an application, provided the same is done or the application is filed within one year from the date of the order under review. As such, the contention of the petitioner that the Hon'ble Minister did not have the power to cause a review, would not survive.

5] Insofar as the submission of the petitioner that respondent No.1 should not be permitted to operate the fair price shop any longer is concerned, the petitioner had approached this Court by this petition filed on 10.7.2017 for challenging the order under review dated 29.8.2016. This Court did not grant ad interim relief to the petitioner. Respondent No.1 has therefore been operating the fair price shop and more so in view of the order dated 16.12.2019 passed by the learned Division Bench at Nagpur in Writ Petition No.2700/2018 filed by respondent No.1 as his shop was suddenly transferred to another place.

6] Consequently, respondent No.1 is operating the shop since 2016. The impugned order of the Hon'ble Minister indicates that the District Supply Officer, Yavatmal shall conduct a proper enquiry and record the statements of complainant card holders. The State Government has introduced a G.R. dated 12.11.1991 which prescribes the procedure for conducting such an enquiry. As more than 3 years have lapsed ever-since the review order has being passed, I do not find that this petition should be entertained when a proper enquiry has been ordered. It is informed that no such enquiry has been conducted pursuant to the order of the Hon'ble Minister.

7] In view of the above, this petition is **disposed off** with a direction to the District Supply Officer, Yavatmal to conduct a proper enquiry as has been ordered and in the light of the government resolution. He would complete the exercise on recording the statements of the card holders and prepare his detailed report and after following the due procedure shall pass an appropriate order. The District Supply Officer shall ensure that the entire enquiry would be completed on or before 10.4.2020. There shall be no extension of time for completing this exercise.

(RAVINDRA V. GHUGE, J.)