

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

WRIT PETITION NO.5062 OF 2018

Ajay Madhukarrao Bhuyar.

Vs.

Hon'ble Minister Food, Civil Supply and Consumer Protection, Mantralaya Mumbai and others.

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

Court's or Judge's orders

Mr. P. S. Patil, Advocate for the petitioner.
Mrs. M. A. Barabde, AGP for respondent nos.1 and 2.
Mr. D. P. Dapurkar, Advocate for respondent no.3.

CORAM : AVINASH G. GHAROTE, J.

DATE : MARCH 02, 2020.

1. I have heard Mr. Patil, learned counsel for the petitioner, Mrs. Barabde, Assistant Government Pleader for the respondent nos.1 and 2 and Mr. Dapurkar, learned counsel for respondent no.3.

2. Relying upon the Government Resolution dated 12.11.1991, learned counsel for the petitioner submits that the punishment imposed upon the petitioner of cancellation of his license is disproportionate and is therefore unsustainable in law. The petitioner, was granted a license for distribution of food grains for the area of Brahmanwada (Govindpur), Tah. Amravati. On complaints being received regarding its operation, on 25.07.2015, an inspection was conducted, by the District Inspection Officer, in which as many 14 deficiencies were found, amongst which some of them were (a) the book stock of sugar was shown 0.19 Quintal, however, in fact there was

none; (b) the book stock of Wheat was shown as 8.05 Quintal whereas actually available was 0.25 Quintal indicating a deficiency of 7.80 of Quintal; (c) the book stock of rice was shown as 2.25 Quintal whereas actually available was 0.30 Kg indicating a deficiency of 1.95 of Quintal. The further deficiencies are indicated in Para 2 of the order dated 04.09.2015 passed by the District Supply Officer, Amravati, who by the same, found that the deficiencies were of serious nature, and therefore, forfeited the deposit as well as cancelled the license, in light of the Government Resolution dated 18.04.2001.

3. On appeal, the Deputy Commissioner, Amravati by its order dated 29.02.2016 maintained the order. In revision before the State Government under Clause 24 of the Maharashtra Essential Commodities (Regulation and Distribution) Order 1975, by an order dated 22.04.2016, the orders of the District Supply officer and that of the Deputy Commissioner, Amravati, dated 04.09.2015 and 29.02.2016 were set aside and the matter was remanded back.

4. This order dated 22.04.2016 was challenged in Writ Petition No.2925 of 2016, and this Court by judgment dated 20.02.2017, set aside the order dated 22.04.2016 and remanded the matter back to the Hon'ble Minister for consideration.

5. Consequent to the remand, the Hon'ble Minister by an order dated 29.04.2017 after considering the entire record and the nature of the violations forthcoming on record, maintained the order dated 29.02.2016 and 04.09.2015 passed by the Deputy Commissioner (Supply) and the District Supply Officer respectively, aggrieved by which the present petition is filed.

6. Mr. Patil, learned counsel for the petitioner submits that the impugned order passed by the Hon'ble Minister is unsustainable in law for two reasons (a) that in the earlier order dated 22.04.2016, since the Hon'ble Minister found that the matter required re-consideration it was not permissible for the same Minister, to have found otherwise in the impugned order dated. 29.04.2017 and (b) that the punishment imposed of cancellation of the license was disproportionate to the Government Resolution dated 12.11.1991. It is submitted that the violations as indicated on the part of the petitioner, were of a medium nature, as per the Government Resolution dated 22.11.1991, and thus the punishment as indicated therein of admonition and forfeiture of the security deposit to the extent of 50 % was the only punishment which could have been imposed.

7. Both these contentions in my humble opinion ought to fail. The first one in light of the position that pursuant to the earlier order dated 22.04.2016, it was always

permissible, for the Hon'ble Minister to re-consider the position on record, and arrived at a different conclusion, which he has so done which cannot be faulted with, in light of the nature of violations indicated. In so far as the second plea is concerned, it cannot be disputed that once having been granted the license, the responsibility to adhere to the terms and conditions as contained therein and so also to the rules, regulations, notifications applicable thereto is clearly that of the petitioner. The nature of the violations some of which have been enumerated above, and also have been categorically listed in the order of the Deputy Commissioner dated 29.02.2016, clearly demonstrate the violations were of a serious nature, demanding the imposition of the punishment as awarded. That apart, it would be material to note, that the considerations and parameters as enumerated in the Government Resolution dated 12.11.1991 are merely indicative, and not conclusive as is reflected from a perusal of Para 2 of the same, in light of which, the petition is clearly without any merits and same is accordingly dismissed, with no order as to costs.

JUDGE