

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8787 OF 2014

Ramesh Rambhau Kolhe

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....

Mr. Naseem R. Shaikh, Advocate for the petitioner

Mr. K. S. Patil, AGP for respondent - State

Mr. Rahul R. Karpe, Advocate for respondent No.7

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 1st MARCH, 2022

ORDER :

1. This petition impugns order dated 30th May, 2014 passed by Respondent No. 4 – District Supply Officer, Ahmednagar, whereby earlier order of restoration of fair price shop licence of respondent No.7 is confirmed. The petitioner has grievance against respondent No. 4 as according to the petitioner, respondent No. 4 has acted in favour of respondent No. 7.

2. The petitioner claims to be whistle blower and ration card holder, his ration card was attached to the fair price shop of respondent No.7. The petitioner complained to Tahsildar, Rahata that respondent No.7, by taking advantage of 50% card holders

leaving the village, had lifted their quota of food grains and sold it in black market, since 2006 and even prior to that. After conducting inquiry into the said complaint, the Tahsildar submitted report to respondent No.4 for cancellation of fair price shop licence of respondent No.7. The licence of respondent No.7 was suspended by respondent No. 4, by order dated 24th November, 2011. Ultimately, by order dated 1st March, 2013, respondent No. 4 cancelled the fair price shop licence of respondent No.7.

3. Respondent No. 7, challenged said order of respondent No. 4 before Deputy Commissioner, Nashik Division, Nashik, who confirmed the same. Respondent No. 7, thereafter, approached the Hon'ble Minister Food and Civil Supplies – respondent No. 2, challenging the order of cancellation of licence of fair price shop, by filing revision. The revision of respondent No. 7 was partly allowed by respondent No. 2. The order of cancellation of fair price shop licence of respondent No. 7 was set aside, forfeiting the deposit and imposing fine of Rs.5000/- on respondent No. 7.

4. The petitioner challenged said order of respondent No.2 before this Court in Writ Petition No. 9672 of 2013. After hearing the parties, this Court passed the following order :

“The District Supply Officer, shall make detailed enquiry of the card holders, record their statements, so also inspect the record and take fresh decision depending upon the enquiry conducted about the fair price shop license of the respondent No.7. If the District Supply Officer finds malpractice or misappropriation while conducting enquiry as per law, then the District Supply Officer is free to take action in accordance with law. The enquiry shall be conducted by the D. S. O. within a period of three (3) months from today.”

5. In pursuance of the order passed by this Court, the District Supply Officer conducted an inquiry with the card holders, on 29th May, 2014 and recorded statements of 17 Antyodaya Card holders, 62 BPL Card holders and 51 APL Card holders, who have stated that they have received the food grains from respondent No.7. The remaining 51 APL Card holders did not receive the food grains, as between October, 2011 and December, 2011 stock of APL food grains was not lifted by respondent No. 7.

6. The District Supply Officer, after holding the inquiry, came to a conclusion that respondent No.7 has distributed the food grains properly and the respective card holders have disclosed that they have received the food grains. He, therefore, confirmed the earlier order passed on 12th December, 2013, by which fair price shop licence of respondent No.7 was restored.

7. Learned advocate for the petitioner has vehemently

submitted that the District Supply Officer has taken into consideration the period during which licence of respondent No.7 was suspended. In fact, the inquiry ought to have been conducted in respect of the period from 2006 onwards, as was complained by the petitioner. Therefore, he submits that respondent No. 4 has conducted the inquiry with a view to favour respondent No.7. Hence, the impugned order is liable to be quashed and set aside.

8. Learned advocate for respondent No.7 as well as learned Assistant Government Pleader, by relying on the affidavit in reply filed by the respondents-State, submitted that the order passed by this Court is complied with and after conducting necessary inquiry, a fresh decision has been taken to confirm the earlier order dated 12th December, 2013.

9. It is not in dispute that pursuant to the directions given by this Court in Writ Petition No. 9672 of 2013, respondent No.4 has conducted an inquiry, in which he has not found any malpractice or misappropriation on the part of respondent No.7. He, therefore, has taken a decision to confirm the order of restoration of fair price shop licence of respondent No.7. The inquiry conducted by respondent No. 4 cannot be faulted with

and the decision impugned in the present writ petition cannot be said to be illegal, erroneous or perverse and, therefore, the challenge raised in this petition is meritless. The writ petition, being devoid of any substance is dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE

drp/wp8787-14