

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12344 OF 2017

1. Stawan Mahila Bachat Gat (Shop No.125)
2. Yashaswini Mahila Bachat Gat (Shop No.111)
3. Kasturba Gandhi Mahila Swaymsahayata
Bachat Gat (Shop No.117)
4. Kasturba Gandhi Maila Sahakari Sanstha
(Shop No.132), through their Chairman
Saw.Jayashri Ambadas Parkhe,
Age-55 years, Occu-Service,
R/o Datta Nagar, Tilak Nagar,
Tal.Shrirampur, Dist.Ahmednagar

-- PETITIONERS

VERSUS

1. The State of Maharashtra,
Through Minister of Food,
Civil Supply and Consumer
Protection,
2. Deputy Commissioner (Supply)
Nasik Division Nasik,
3. District Supply Officer,
Ahmednagar,
4. Tahsildar (Supply),
Shrirampur

-- RESPONDENTS

Mr.Shaikh M.A.Jahagirdar, Advocate for the petitioners.
Mr.K.B.Jadhavar, AGP for respondent Nos. 1 to 4.

(CORAM : BHARATI H. DANGRE, J.)
DATE : FEBRUARY 8, 2022

JUDGMENT :

1. The petition is filed by the Chairman of four Bachat Gats, who were given authorization to run fair price shops and it is the claim of the petitioners that the groups are formed for upliftment of the financial condition of women from lower strata of the society.

The petitioners are aggrieved by cancellation of their authorization at the hands of the District Supply Officer and it is alleged that the same is done on unsustainable grounds and the policy of the State Government do not contemplate the action of cancellation of authorization of the fair price shop in the wake of the allegations levelled against them.

2. Heard the learned Advocate Mr.Shaikh M.A.Jahagirdar for the petitioners and the learned AGP Mr.K.B.Jadhavar for the State.

Rule. Rule made returnable forthwith. Heard by consent of the parties.

The four petitioners are the Mahila Bachat Gats, who were conferred authorization by respondent No.3 to run distinct fair price shops in Taluka Shrirampur, Dist.Ahmednagar. Notice was issued to the petitioners by the District Supply Officer, Ahmednagar under the

Maharashtra Scheduled Commodities (Regulation of Distribution) Regulation, 1975 on 14/05/2013. The said notices came to be issued in the wake of a report submitted by the Tahsildar, Shrirampur on 22/04/2013, alleging that on 18/04/2013, one Tata Model Vehicle No.MH-02-2015 was found stranded near the house of one Sudhakar Dagadu Adagale and this vehicle was loaded with 42 gunny bags of rice being stamped with Indian Food Corporation (IFC) and on noticing that the food grain was stocked unauthorizedly, an offence came to be registered against Mr.Aslam Shaikh, driver of the vehicle and its owner Mr.Sudhakar Adagale. In this offence, one Ambadas Parkhe, alleged to be the Salesman of the petitioners Bachat Gats, was arraigned as an accused and arrested. In this background, the petitioners were put to notice that they have violated the provisions of the Maharashtra Scheduled Commodities (Regulation of Distribution) Regulation, 1975 and by the said notice, the petitioners were asked to show cause as to why their license of the fair price shop should not be cancelled.

Identical notices came to be issued to all the 4 petitioners.

3. The notices were responded to by the petitioners by submitting that they failed to understand their connection to the recovery of gunny

bags of rice from the tempo and it was clarified that the fair price shop allotted to every Bachat Gat is run by 7-8 women and the food grains which is received, is duly distributed as per norms and a record to that effect is maintained in a transparent way. It was reiterated that if the record in the shops is perused, the stock is maintained and registered as per the register, which is maintained.

4. The District Supply Officer, that is the respondent No.3 passed an order on 22/05/2013, suspending authorization of the fair price shops of the petitioners.

Being aggrieved by the said order, the petitioners approached the Deputy Commissioner (Supply) Nasik Division by filing revision application and the same came to be partly allowed and the suspension order was set aside with a direction to respondent No.3 to proceed against the petitioners as per the rules, on the basis of the report of the Tahsildar, Shrirampur, if they are found guilty.

5. This resulted in passing of the impugned order by the District Supply Officer, cancelling the authorization of the petitioners. Once again the petitioners filed revision application against the order of

cancellation of authorization and it came to be allowed by the Deputy Commissioner (Supply) and respondent No.3 was directed to conduct a fresh enquiry in the matter after giving notice of the allegations to be met by the petitioners. The respondent No.3 again passed the same order on 18/03/2016 and ordered cancellation of authorization of the fair price shop run by petitioners Bachat Gat.

6. The petitioners approached the Deputy Commissioner (Supply) Nasik by filing revision applications, which came to be dismissed. This constrained the petitioners to approach respondent No.1, the Hon'ble Minister of Food Supply Department, who by upholding the impugned order, dismissed the revision application.

7. On hearing the learned Advocate for the petitioners and the learned AGP and on perusal of the paper book of the petition, it appears that the lodging of the FIR with Shrirampur Police Station by the Supply Inspector, Shrirampur, is one of the reasons for initiating the action against the Bachat Gats. Another reason which could be discovered from the record, is the deficiencies noted, on the inspection of the fair price shops of the petitioners being carried out on

22/04/2013, wherein less quantity of food grains was found. The third reason which surface on record is the accusation that there was no distribution to the beneficiaries in the month of December 2012 though the food grains were allotted to the respective fair price shops.

8. In the wake of the aforesaid allegations when the relevant documents are produced, it can be seen that in the first First Information Report lodged in respect of huge quantity of rice being transported in the Tata Tempo for the purpose of black marketing, one Aslam Shaikh and Sudhakar Adagale were arraigned as accused. In this CR, one person by name Ajay Parkhe was added lateron and it is alleged that, this Ajay Parkhe was working as a Salesman of the petitioners/ Bachat Gats. The petitioners however offered explanation in respect of the alleged connection with Ajay Parkhe by submitting that is he was appointed not as a supplier but is appointed to render assistance to the Bachat Gats for crediting the amount in the bank, passing of challans, obtaining permits etc. Further he was also authorized to collect the food grains from the godown and the resolution to that effect, which was passed in the meeting of the Bachat group came to be forwarded to the Supply Officer as well as Tahsildar,

Shrirampur.

The allegation that Shri Ajay Parkhe was appointed by the petitioners as a Salesman, do not find any corroboration, on the other hand, the Tahsildar, Shrirampur in his affidavit dated 07/02/2017 has stated that Shri Ajay Parkhe was Salesman of 4 fair price shops and the copy of the resolution of the Bachat Gats is brought on record through his affidavit. The said resolution confirm the stand of the petitioners that Shri Ajay Parkhe was appointed for a limited purpose and though his nomenclature is given as Salesman, he was not authorized to sale the goods but was authorized to deposit money, pass challans, obtain permit and collect the food grain from the godown. Therefore his involvement as a Salesman of the petitioners Bachat Gats with the crime in question bear no connection. Offence bearing Crime No.44/2013 came to be registered with Police Station, Shrirampur on a complaint filed, alleging that 42 rice bags stamped with Indian Food Corporation are found in the vehicle of the accused Aslam Shaikh and Sudhakar Adagale. The affidavit of the Tahsildar admit that Ajay Parkhe was arrested as accused subsequently as he was salesman of the 4 fair price shops of the petitioners. However, even the FIR do not establish the connect of the petitioners with the said crime, as the

petitioners were never arrayed as accused in the said crime which invoke offence u/s 3 and 7 of the Essential Commodities Act. On being tried, the accused came to be acquitted by the learned Judicial Magistrate F.C. Shrirampur on 05/12/2019, since the prosecution was unable to prove that the rice bags found in the Tata Tempo Vehicle No.MH-02-2105 were being transported for selling it in the blackmarket. A finding is recorded in the judgment of the Magistrate to the effect that the accusation is not proved by bringing any cogent evidence and no offence u/s 3 and 7 of the Essential Commodities Act is made out and therefore the accused persons came to be acquitted. It is pertinent to note that accused no.3 Ajay Parkhe died during the pendency of the trial.

9. So far as the accusation about irregularities in the inspection of the fair price shop conducted on 22/04/2013 is concerned, the respondent/Tahsildar, who has filed an affidavit, has placed on record the report of the Inspection in respect of petitioners / Bachat Gats.

On perusal of the said inspection report, in Coloumn No.30, certain remarks are made to following effect; “cleanliness should be maintained in the shop, shop to be kept open on required hours etc.”

The Inspection report reveal that some quantity of food grains was found to be less in all the four fair price shops. About the other compliance sought in inspection, the fair price shops were found to have complied with all the requirements.

10. The learned Advocate for the petitioners have placed reliance on the Government Resolutions dated 12/11/1999, which is in form of an order governing the fair price shops including it's allotment and the action to be initiated in case there was violation of the terms and conditions by the fair price shop owners. The nature of allegations would determine the action to be taken against the fair price shops and the serious charges which are set out by the resolution include sale of food grains and other essential commodities on a higher price fixed by the Government, misappropriation of the food grains or sale of the food grains in places other than the fair price shop. Non lifting of food grains and keeping the shops close are some of the charges which are categorized as serious one, which contemplate serious action by following the procedure prescribed. It is only when this category of charges are levelled and proved, the license of fair price shop is liable to be cancelled.

11. In the wake of the Government Resolutions and perusal of the inspection reports, there is no allegation faced by the petitioners that they have sold the food grains outside the shop or at a price higher than the one fixed by the Government. As far as the incident of the rice bags of Indian Food Corporation Stamp being discovered in the vehicle of the accused persons, against whom the offence was registered under the Essential Commodities Act, it bears no connection with the petitioners except the allegation of involvement of Mr. Ajay Parkhe, who stands acquitted of the said charge. Neither the petitioners are arrayed as accused in the said crime nor did they face any accusation about selling the food grain in the fair price shop in the black market. Only because during inspection of fair price shops of the petitioners, certain quantity of food grains was found to be less, do not warrant a serious action of cancellation of their license / authorization. Apart from this, as regards the allegation that the beneficiaries did not get the supply for a particular month, the said beneficiaries had recorded their statements, stating that in the month of February and March 2013, they have received their quota of rice and wheat of the earlier month, and it was not received by them since there was no supply to the fair price shop.

12. In the wake of the aforesaid factual position, it cannot be said that the fair price shops run by the petitioners demand a serious action of cancellation of their permit / authorization particularly when the fair price shops authorization is granted to the Mahila Bachat Gats with an object of uplifting of women in the village / society. It is not established that petitioners have themselves committed any offence under the Essential Commodities Act, 1975 and since the respondent No.3 failed to establish any connection of the petitioners with CR No.44/2013, except the allegation that Mr.Ajay Parkhe was appointed as a Salesman, and as the competent Criminal Court has acquitted all the accused persons of the said charge, being not convinced by the case of the prosecution that they have committed an offence u/s 3 and 7 of the Essential Commodities Act, there is no reason why the petitioners Bachat Gats should be made to suffer the serious consequences of cancellation of their authorization. The irregularities being noticed in the inspection report, are not grave and serious, in terms of the policy of the Statement Government as contained in the Govt. Resolution dated 12/11/1991, the impugned orders cancelling the authorization of fair price shop in favour of the petitioners by the District Supply Officer and subsequently the orders passed by the Deputy Commissioner

(supply), Nasik and the Minister of Food Supply and Consumer Protection Department i.e. respondent No.1, cannot be sustained. The petitioners are entitled for restoration of their authorization, to run the fair price shop, by setting aside the impugned orders.

13. I cannot refrain myself from commenting upon the approach of the State Authorities right from the level of the Tahsildar to the highest level of the State Government. It is necessary to take note of the prevailing status of women in this country, where every endeavour is made on all fronts by equipping them with the tools they need to have power and control of their own lives and when the policy of the Government is to encourage their empowerment, so that they become independent and develop the ability to make strategic choices in all areas of their lives and would take this country ahead in securing gender equality by their sustainable development. Woman empowerment being the motto of the State, in utter contrast, in this case the State Authorities have undermined the four bachat gats and in a flippant manner have deprived them an opportunity of empowering several women in rural area who had come together and formed a bachat gat who was allotted authorization to run the fair price shop. It

is a matter of serious concern about the whole approach against the petitioner bachat gat who in a perfunctory manner were discouraged and deprived of the authorization granted in their favour on clumsy and a non existent grounds.

14. As a result of the above, Rule is made absolute in the above terms. It is however necessary to issue a direction to respondent No.3 to immediately restore the authorization in favour of the petitioners in a period of 8 (eight) weeks from the date of communication of the order to him.

(BHARATI H. DANGRE, J.)