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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9659 OF 2022

Sant Muktabai Swayamsahayata Mahila Bachat
Gat, through its Chairman .. Petitioner

Versus

The State of Maharashtra and Ors. .. Respondents

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- Mr. Sanjeev P. Kadam a/w. Mr. Mayur Sanap and Mr. Pratik Deshmukh, Advocates for the Petitioner.
 - Mr. S.H. Kankal, AGP for Respondents – State.
 - Mr. Ashish S. Gaikwad a/w. Mr. Ujwal R. Agandsurve and Vijayata Shinde, Advocate for Respondent Nos.4 and 5.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 14, 2022.

P.C.:

- 1.** Rule. Rule made returnable forthwith with the consent of the parties.
- 2.** Heard Mr. Sanjeev Kadam, learned Advocate for the Petitioner, Mr. Ashish Gaikwad, learned Advocate for Respondent Nos.4 and 5 and learned AGP for the State.
- 3.** The challenge in the present petition pertains to allotment of fair price shop No.127 (for short “**the said shop**”) in village Shripatpimpri, Taluka Barshi, District Solapur. By Order dated 12.02.2019 the District Supply Officer, Solapur allotted the said shop in favour of Respondent No.4.
- 4.** Being aggrieved Petitioner approached the Deputy Commissioner (Supply), Pune Division in appeal and contended

several grounds of ineligibility of Respondent No.4. After hearing the parties, the first Appellate Authority by Order dated 27.11.2020 set aside the Order dated 12.02.2019 passed by the District Supply Officer, Solapur.

5. Respondent No.4, being aggrieved filed the statutory second appeal before the Respondent No.1 – State. By Order dated 18.04.2022, Respondent No.1 – State allowed the Appeal filed by Respondent No.4, set aside the Commissioner's Order dated 27.11.2020 and confirmed allotment of the said shop in favour of Respondent No.4. This Order is impugned in the present Petition.

6. Mr. Kadam, learned Advocate appearing for Petitioner submitted that there are serious infirmities and inadequacies regarding the eligibility of Respondent No.4 in respect of allotment of the said shop. He has drawn my attention to the letter dated 08.12.2017 addressed by Project Manager of Maharashtra State Rural Jivnonatti Abhiyan, Barshi to the Tahsildar, Barshi which in paragraph No.1 lists serious allegations and anomalies in respect of the constitution, functioning and status of Respondent No.4.

7. Mr. Gaikwad has countered Mr. Kadam's submissions by arguing that 'Exhibit B' is not an official / statutory report which is required to be considered by the Selection Committee before allotment of the said shop and hence has no relevance whatsoever. Hence it be discarded.

8. Perusal of 'Exhibit B' reflects the investigation in respect of the antecedents of Respondent No.4. It is stated in 'Exhibit B' that on investigation it was revealed that there is a separate institution comprising of the same members as that of Respondent No.4 bearing an identical name. That both these entities have opened a common bank account in the same branch of IDBI Bank at Barshi. Further annexed to the letter is the list of members of both the entities alongwith copy of the first page of bank passbook. That both the entities are not registered with the Maharashtra State Rural Jivanonatti Abhiyan, Barshi. That one of the entities is not even a registered body. The letter dated 08.12.2017 has an enclosure of the investigation report running into 447 pages. The said report has been placed before the Tahsildar who ought to have considered the same in its letter and spirit and should have submitted the same to the Selection Committee and or the District Supply Officer before the Order of allotment came to be made in favour of Respondent No.4. *Prima facie* contents of paragraph No.4, as stated above clearly indict the credentials of Respondent No.4.

9. At this stage, it is stated that Respondent No.4 has already commenced its operation from the said shop. However, the allegations made in the report are extremely serious on the face of record and deserve to be investigated and considered. I am not opining as to whether the allegations are true and correct at this stage. Hence, an

enquiry is necessitated to unearth the truth. Respondent No.4 certainly will have to be given a fair opportunity to meet those allegations.

10. In fact, both Petitioner and Respondent No.4 will have to be given a fair opportunity to contest and stake their respective claims for seeking allotment of the said shop in village Shripatpimpri, Taluka Barshi.

11. The impugned Order dated 18.04.2022 read with the original Order dated 12.02.2019 passed by the District Supply Officer, Solapur, both are unsustainable and cannot be countenanced and deserve to be quashed and set aside. However, the Order passed by the learned Deputy Commissioner (Supply) Pune Division, Pune dated 27.11.2020 also stands set aside in the interest of justice and fair play.

12. The Tahsildar is directed to hear the Petitioner and Respondent No.4 afresh along with their respective objections, if any, within a period of four weeks from today and after conducting the hearing pass a reasoned Order within a period of two weeks thereafter. Parties shall appear before the Tahsildar on 19.10.2022 at 12:00 noon for fixation of the date of hearing.

13. Petitioner and Respondent No.4 both shall be entitled to give their further written submissions and place the same before the Tahsildar. It is made clear that if the Tahsildar desires to refer and rely upon any report prepared by the government officers in respect of the eligibility of the Petitioner and/or Respondent No.4, a copy of the

said report shall be handed over to the respective parties before conducting the hearing.

14. Perusal of the copy of resolution dated 28.11.2018 placed at 'Exhibit A' to the petition reveals that in all six proposals were received by the Gram Sabha for considering allotment of the said shop. These proposals were received from Shahid Bhagatsingh Sarvajanic Vachanalay, Swami Samarth Mahila Bachat Gat, Satish Bhagwat Jagdale, Sau. Kanchanmala Pravin Kadam, Petitioner and Respondent No.4. The Gram Sabha in its meeting held on 28.11.2018 passed a resolution giving its approval to the aforementioned six applicants to be considered by the Competent Authority. Accordingly, the names of the above six applicants were approved by the Gram Sabha and recommended for allotment to the Competent Authority. In view of the setting aside of the impugned Order dated 18.04.2022, all the aforesaid six applicants who were originally recommended by the Gram Sabha shall now be entitled for fresh selection (including Petitioner and Respondent No.4).

15. The Tahsildar is directed to give a reasoned decision as directed hereinabove in view of the allegations levelled against Respondent No.4 after hearing the Petitioner and Respondent No.4 and forward a copy of the same to the Selection Committee appointed by the State Government. In terms of the policy framed by the State Government vide its resolution dated 06.07.2017, the Selection

Committee is directed to evaluate the fresh proposals that will be called for and received from the aforementioned six original applicants (including Petitioner and Respondent No.4) strictly in accordance with law and after preparing its report on the selection of the eligible entity (applicant) for allotment of the said shop. The Committee shall thereafter give its recommendation and report to the District Supply Officer for issuance of the allotment letter in favour of the selected entity.

16. It is directed that since Respondent No.4 has already commenced its operation and in view of the Diwali festival season, status quo shall be maintained only until the District Supply Officers issues the fresh allotment letter as directed hereinabove after conducting the exercise as stated hereinabove.

17. The entire exercise contemplated above shall be completed by the Respondent Nos.1 to 3 after adhering to the above directions within a period of four months from today. The fresh decision of the District Supply Officer shall be kept in abeyance for a period of two weeks, if the same is adverse to the Respondent No.4.

18. With the above directions, Writ Petition stands disposed of.

19. Rule is made absolute in the above terms.

[MILIND N. JADHAV, J.]