

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.14606 OF 2019

- . Jagan s/o Panditrao Gorade,
Age: 42 years, Occu.: Agri.,
R/o.: Mhasla (Bud.), Tal. Sillod,
District: Aurangabad .. **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary,
Department of Food and Civil Supply
and Consumer Protection,
Mantralaya, Mumbai
2. The Hon'ble Minister for State
Food and Civil Supply and Consumer
Protection, Mantralaya, Mumbai
3. The Secretary,
Department of Food and Civil Supply
and Consumer Protection,
Mantralaya, Mumbai
4. Assistant Commissioner (Supply),
Aurangabad
5. District Supply Officer,
Collector office at Aurangabad
District: Aurangabad
6. Tahsildar (Supply),
Tal.: Sillod,
Dist.: Aurangabad
7. Gopal s/o Raibhan Gorade,
Age: Major, Occu.: Agri.,
R/o.: Mhasla (Bud.), Tal.: Sillod,
District: Aurangabad .. **Respondents**

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Advocate for Petitioner: Mr. D. P. Palodkar
AGP for Respondent/State: Mr. K. B. Jadhavar
Advocate for Respondent No.7: Mr. N. R. Pawade

CORAM: ARUN R. PEDNEKER, J.

Reserved on: 13.03.2023

Pronounced on: 21.03.2023

JUDGMENT:

1. By the present Writ Petition the petitioner is challenging the legality of the order dated 15.01.2019, passed by Respondent No.2 / Hon'ble Minister in Revision No. VaiAaMa-1118 / PraKra.145 / NaPu-21, upholding the order of the Respondent No.4 / Assistant Commissioner (Supply) dated 06.05.2016. And, so also, the order dated 06.05.2016, passed by the Assistant Commissioner (Supply), Aurangabad / Respondent No.4 in OW. No.2016/SB/Ri.Pi.302; whereby the order dated 16.01.2016 of cancelling the license of the Respondent No.7 to run the fair price shop passed by Respondent No.5 / District Supply Officer is set aside on technical grounds.

2. **Rule.** Rule is made returnable forthwith. With consent of parties, the Writ Petition is heard finally.

3. Heard Mr. D. P. Palodkar, learned counsel for the Petitioner, Mr. K. B. Jadhavar, learned

AGP for the Respondent / State and Mr. N. R. Pawade, learned Counsel for Respondent No.7.

4. It is the case of the Petitioner that he was the card holder with Respondent No.7 and Respondent No.7 has committed serious illegalities in running the fair price shop i.e. selling food grains at a very exorbitant price, non issuance of the receipts etc. and, thereafter, several complaints were made against Respondent No.7 in running the fair price shop. Thereafter, *Gram Sabha* passed a Resolution seeking to initiate action against Respondent No.7. In pursuance of the Resolution passed by the Village Panchayat, the Tahsildar forwarded the complaint to the District Supply Officer. Thereafter, inquiry was conducted by the District Supply Officer. On recording of the statements of various villagers and card holders, Respondent No.5 / District Supply Officer cancelled the license of Respondent No.7 to run the fair price shop No.123. Respondent No.7, preferred Revision before Respondent No.4 / Assistant Commissioner (Supply) and the matter was

remitted back by Respondent No.4 / Assistant Commissioner (Supply). Thereafter, Respondent No.5 / District Supply Officer passed fresh order cancelling the license of Respondent No.7.

5. In a Revision filed before Respondent No.4 / Assistant Commissioner (Supply), Respondent No.4 / Assistant Commissioner (Supply) held that there was denial of natural justice and Respondent No.7 was not heard while passing the order and, as such, the order passed by Respondent No.5 / District Supply Officer was set aside. The Petitioner challenged the order passed by Respondent No.4 / Assistant Commissioner (Supply) before Respondent No.2 / Hon'ble Minister and Respondent No.2 / Hon'ble Minister also maintained the order passed by Respondent No.4 / Assistant Commissioner (Supply). By the present petition, the Petitioner is challenging the order passed by the Hon'ble Minister so also Respondent No.4 / Assistant Commissioner (Supply).

6. It is the primary contention of the petitioner that though there were certain

illegalities committed by Respondent No.7, Respondent No.4 / Assistant Commissioner (Supply), so also, Respondent No.2 / Hon'ble Minister has set aside the orders passed by Respondent No.5 on technical ground of denial of natural justice but has failed to remit the matter back for reconsideration. The Petitioner submits that he has pursued the matter for such a long period of time and that Respondent No.7 has committed various illegalities in running the fair price shop and is not entitled to run the fair price shop to the detriment of card holders.

7. Per contra, Respondent No.7 submits that the Petitioner is no more the card holder of fair price shop of Respondent No.7 and from 2014 onwards the Petitioner shifted his card to the second fair price shop available in the village and that the Petitioner cannot espouse the cause after shifting the card to some other fair price shop. Respondent No.7 further submits that he has been running successfully the fair price shop without any complaints after it's restoration till

today and that interference at this stage would be prejudicial to the interest of Respondent No.7.

8. Having considered the rival submissions it is to be noted that the Petitioner has changed his card from Respondent No.7 to some other shop after 2014, on the ground that he was facing several difficulties in getting the services from Respondent No.7. The village *Gram Sahba* had also initiated complaint against Respondent No.7 and that the complaint raised by the villagers as also the Petitioner needs to reach to its logical conclusion. The order is passed on technical grounds by Respondents No.4 / Assistant Commissioner (Supply) and Respondent No.4 has set aside the order passed by Respondent No.5 / District Supply Officer, cancelling the fair price shop license of Respondent No.7. After having setting aside the order of Respondent No.5 / District Supply Officer, the matter ought to have been remanded back to Respondent No.5 / District Supply Officer for re-consideration based on the material and after hearing the parties.

9. In view of the same, the orders passed by all the authorities are set aside and the matter is remanded to Respondent No.5 / District Supply Officer for fresh adjudication based on the material already available on record. Respondent No.5 / District Supply Officer to pass an order on the complaint of the Petitioner, after giving opportunity to all the affected persons within a period of four (04) months of receipt of this order. The District Supply Officer / Respondent No.5, to decide the complaint independently and without being influenced with any part of order of this Court or of other authority.

10. Rule is made absolute in above terms.

11. The Writ Petition stands allowed and disposed of with above direction.

[ARUN R. PEDNEKER, J.]

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