



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

WRIT PETITION NO. 1140 OF 2023

Shri Vijay Fanylal Khaparde

..VS..

The Minister for Food, Civil Supply and Consumer Protection Department 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. S.M. Vaishnav, Advocate for petitioner.

Ms. S.N. Thakur, AGP for respondent Nos.1 to 3.

Mr. S.U. Kothekar, Advocate for respondent No.4.

CORAM : AVINASH G. GHAROTE, J.

DATED : 01st DECEMBER, 2023

1. On 21.02.2023, the following position was recorded :

“2. The petitioner is a card holder in respect of fair price shop run by the respondent No. 4. Since there were illegalities committed by the respondent No.4, the petitioner filed a complaint, on the basis of which, an enquiry came to be initiated. The enquiry report dated 04.10.2021 (page 33) indicates defalcation by the respondent No.4. The Tahsildar Kelapur by his order dated 05.10.2021 (page 37) in view of illegalities directed Mr. R. M Jaiswal, the fair price shop owner at Vrindawan Takli to operate the license of the respondent No.4. The learned respondent No.3 by the order dated 18.11.2021 (page 39), rendered a finding that the terms of license were violated and imposed 100% penalty, directing forfeiture of the deposit

and issued a warning that such irregularity should not be continued. Against this order, a revision was filed before the respondent No. 2, in which by an interim order dated 13.12.2021 (page 51), a status quo was directed. The revision ultimately came to be allowed by the order dated 23.06.2022 (page 59) by cancelling the license of the respondent No. 4. It is contended, that in revision before the respondent No.1, a notice was served in pursuance to which an application for supply of the revision memo and documents was filed (page 60), on which date, the documents were received and it was stated, that the date of hearing would be intimated, inspite of which, without intimating the date of hearing the impugned order has been passed. In respect to this allegation, there is no material on record either in the form of order sheets or otherwise, and therefore, on face value the same is not acceptable. The next contention is that the report dated 04.10.2021 (page 19), has not been considered in the impugned order, which directs the restoration of license of the respondent No. 4 at a meager penalty of Rs. 5,000/-. It is contended, that the enquiry report dated 04.10.2021 indicates in detail, the illegalities committed by the respondent No.4 by ignoring which the impugned order has been passed.”

2. The learned AGP upon perusal of the record makes a statement that after demand for supply of

revision memo and documents by way of an application filed by the petitioner on 02.11.2022, the record does not demonstrate that the matter is fixed for hearing.

3. In this view of the matter, the order dated 06.02.2023 passed by the respondent No.1 cannot be sustained and is hereby quashed and set aside and matter is remitted back to respondent No.1 to hear the parties and pass an order afresh.

4. The parties shall appear before respondent No.1 on **18.12.2023** and the revision shall be decided by the respondent No.1 within a period of 30 days thereafter.

5. The Writ Petition is, therefore, allowed in the above terms. No costs.

JUDGE

Kirtak