



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9748 OF 2021

Sunita Wd/o Suresh Darak,
Age : Major Years, Occu. : Agri. & Business,
R/o Naya Nagar, Hussain Colony,
Garkheda Parisar, Aurangabad,
Tq. & District Aurangabad.

... **Petitioner.**

Versus

1. The State of Maharashtra,
Through its Secretary,
Food, Civil Supply and Consumer
Protection, Mantralaya, Mumbai.
2. The Deputy Commissioner (Supply),
Aurangabad Division, Aurangabad.
3. The District Supply Officer,
Aurangabad, Dist. Aurangabad.
4. The Food Grain Distribution Officer,
Aurangabad, Tq. & Dist. Aurangabad. ... **Respondents.**

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Advocate for the Petitioner : Mr. Mahesh P. Kale.
AGP for Respondents-State : Mrs. M. L. Sangit.

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CORAM : S. G. MEHARE, J.
DATE : 03.01.2024

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally
by consent of the parties.

2. The petitioner was running a fair-price shop in Aurangabad. However, the District Supply Officer suspended the license to run the fair price shop on 29.09.2018. Against the suspension, the petitioner had preferred a revision application before the Deputy Commissioner (Supply), Aurangabad, on 26.03.2019 with a prayer to condone the delay of four (4) months and 24 days. The Deputy Commissioner (Supply), Aurangabad, had, by the order dated 08.01.2020, dismissed the revision application on the sole grounds that the delay was not properly explained. The petitioner had impugned the said order before the Hon'ble Minister of Food and Civil Supply, Mantralaya, Mumbai. The Hon'ble Minister also dismissed the petition by order dated 22.03.2021. The petitioner's contention is that the petition before the Hon'ble Minister was only against the refusal to condone the delay. However, the Hon'ble Minister has also considered the merits. He also argued that when the Deputy Commissioner (Supply), Aurangabad, did not pass the order on merit, the Hon'ble Minister ought not to have passed the order considering the merits of the case. Therefore, both orders were illegal and incorrect.

3. The Learned AGP for the respondents/State has vehemently opposed the writ petition. She would submit that the petitioner's contention has not been considered this way or otherwise. The strict rule of the procedure is not applicable to the cases before the authorities, as they are in a *quasi-judicial* jurisdiction. The petitioner has no good case for condonation of delay. Hence, she prayed to dismiss the writ petition.

4. A small question before the Court is whether the delay in preferring the revision before the Deputy Commissioner (Supply), Aurangabad, caused in preferring a revision against the order of District Supply Officer, Aurangabad, dated 29.09.2018 is liable to be condoned.

5. The petitioner's case was that he approached the revisional authority soon after knowing about the impugned order. There was no deliberate delay. The petitioner runs a fair-price shop. The Deputy Commissioner (Supply), Aurangabad, should have taken a lenient view in condoning the delay. The right of the petitioner has been involved. The illegality and correctness of the District Supply Officer's order dated 29.09.2018 were to be examined. Unfortunately, the revision petition of the petitioner was dismissed on the sole ground of no satisfactory explanation for the delay. It appears that the

reasons for the delay are acceptable. It was a fit case to condone the delay. The right to protest the suspension of the fair-price shop licence was involved. Therefore, in the interest of justice and for protecting the rights of the petitioner, delay is liable to be condoned, and an opportunity to hear the applicant on merit should be granted. Hence, the following order :

ORDER

- (i) The writ petition is allowed.
- (ii) The order of Deputy Commissioner (Supply), Aurangabad, passed in O.W.No.2019/SB/Ripi-69, dated 08.01.2020 and the order of the Hon'ble Minister, Food and Civil Supply, Mantralaya, Mumbai, passed in Vai.a.mum.1121/Pra-Kra 35/Napu 21, dated 22.03.2021 have been quashed and set aside.
- (iii) The delay caused in preferring the revision against the order of the District Supply Officer, Aurangabad, in case No.2018/Swa.Dha.Du./Pra.Kra.15, dated 29.09.2018, stands condoned.
- (iv) The Deputy Commissioner (Supply), Aurangabad, is directed to hear the petition on the merits against the impugned order of the District Supply Officer, dated 29.09.2018 and decide the revision within one (1) month from the receipt of this order.

- (v) The petitioner is to appear before the Deputy Commissioner (Supply), Aurangabad on 15.01.2024.
- (vi) The rule is made absolute in the above terms.

(S. G. MEHARE, J.)

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vmk/-