



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6147 OF 2023

Ganesh Radhakisan Wadghane,
Age 42 yrs., Occ. Agri.,
R/o Bori Pimpalgaon, Tq. Georai,
Dist. Beed.

... Petitioner

... **Versus** ...

- 1 The State of Maharashtra
Through Cabinet Minister,
Food, Civil Supplies and Consumer Protection,
Mantralaya, Maharashtra State,
Mumbai.
- 2 The Deputy Commissioner (Supply),
Aurangabad Division, Aurangabad.
- 3 The District Supply Officer,
Beed, Dist. Beed.
- 4 The Tahsildar,
Tahsil Office, Georai,
Dist. Beed.
- 5 Shriram Shripatrao Wadghane,
Age 60 yrs., Occ. Agri.,
R/o Bori Pimpalgaon, Tq. Georai,
Dist. Beed.

... Respondents

...

Mr. V.P. Savant, Advocate for petitioner

Mr. P.D. Patil, AGP for respondent Nos.1 to 4

Mr. P.S. Dighe, Advocate for respondent No.5

...

CORAM : S.G. CHAPALGAONKAR, J.

RESERVED ON : 21st JUNE, 2024

PRONOUNCED ON : 08th JULY, 2024

JUDGMENT :

1 Rule. Rule made returnable forthwith. Heard learned Advocates for the parties finally, by consent.

2 The petitioner impugns the order dated 09.01.2023 passed by Hon'ble Minister, Food, Civil Supplies and Consumer Protection Department in Revision Petition No.39/2021.

3 The petitioner is resident of village Bori Pimpalgaon, Tq. Georai. Respondent No.5 runs a fair price shop under licence issued by respondent No.3. Card holders had various complaints against the conduct of business of fair price shop. Accordingly, representations were made to authorities. On 29.05.2020 report of inquiry was submitted by respondent No.4 to respondent No.3. Consequently, show cause notice was served upon

respondent No.5 and after receiving his reply, licence of respondent No.5 was suspended. However, in Revision Application filed by respondent No.5 before respondent No.2, the order suspending licence was set aside with directions for re-inquiry. After re-inquiry, respondent No.4 submitted report to respondent No.3. After considering report the licence was restored in favour of respondent No.5. However, when card holders made grievance as regards to fairness of inquiry, the order of restoration of licence was stayed and directions were issued by respondent No.3 to respondent No.4 to conduct proper inquiry and record statements of at least 50% card holders. On 10.11.2020 respondent No.3, based on re-inquiry report restored the licence. Petitioner assailed the order of respondent No.3 in Revision before respondent No.2 – Deputy Commissioner (Supply), Aurangabad, who partly allowed the Revision under order dated 05.01.2021 and directed respondent No.3 to cause re-inquiry into the matter through some other Tahsildar and take the fresh decision. Petitioner as well as respondent No.5 challenged the order dated 05.01.2021 passed by respondent No.2 before respondent No.1. Petitioner was aggrieved to the extent of directions contained in clause No.3 of order dated 05.01.2021, by which remand and re-inquiry was directed, whereas respondent No.5 substantively raised challenge to the order of respondent No.2 - Deputy Commissioner (Supply). As such, two independent Revision Applications bearing No.39/2021 and 49/2021 were filed before

respondent No.1. After hearing all concerned, respondent No.1 allowed Revision Application filed by respondent No.5 and restored the order dated 10.11.2020 passed by respondent No.3 by setting aside the order dated 05.01.2021 passed by respondent No.2 - Deputy Commissioner (Supply). It is further directed that respondent No.5 shall file the bond that he shall distribute food grains only through E-POS machine and shall deposit Rs.5,000/- as a fine for irregularities noted against him.

4 Mr. V.P. Savant, learned Advocate appearing for petitioner vehemently submits that report of inquiry dated 19.10.2020 submitted by Tahsildar depicts that statements of 110 card holders were recorded on 13.10.2020. Most of the card holders had complained about conduct of respondent No.5. However, ignoring such material respondent No.3 had restored licence under order dated 30.09.2020. In Revision Application filed by petitioner, Deputy Commissioner (Supply) observed serious irregularities in conduct respondent No.5, consequently set aside order dated 10.11.2020 however unnecessarily directed remand and re-inquiry. The petitioner had filed Revision Application challenging that part of order, however, Hon'ble Minister kept that Revision pending and decided Revision Application filed by respondent No.5, thereby setting aside order of respondent No.2. According to him, there is serious error in the approach of respondent No.1. Although

there are serious complaints against respondent No.5, trifle fine of Rs.5,000/- has been imposed while continuing licence.

5 Per contra, Mr. P.S. Dighe, learned Advocate appearing for respondent No.5 justifies impugned order.

6 Having considered submissions advanced, apparently, complaints against respondent No.5 were inquired by the competent authority and three different reports of such inquiry are on record. The last such inquiry report is dated 19.10.2020 that refers to statements of 129 card holders. However, none of such statement is on oath or made part of record. The gist of so called statements is given in tabular form and same is made part of report. After perusal of the report, respondent No.3 found it fit to restore the licence. However, respondent No.2 in Revision Application filed by respondent No.3 observed that statements of card holders are recorded in format. The inquiry report was never served upon respondent No.5 nor he was granted opportunity of hearing. The inquiry has been conducted at Grampanchayat office. However, finally directed that the inquiry shall be conducted in terms of clause No.11(3)(B),(C) and (D) of the Government Resolution. In light of aforesaid findings respondent No.2 set aside order dated 10.11.2020 passed by respondent No.3 and remanded matter for re-inquiry through Tahsildar from different Tahsil and complete the procedure in terms of guidelines laid

in Government Resolution dated 12.11.1991.

7 The order of respondent No.2 was assailed by petitioner as well as respondent No.5 before State Government/Hon'ble Minister by filing two different Revision Applications. After hearing all concerned, the matter was closed for final orders. Ultimately Hon'ble Minister set aside order dated 05.01.2021 and directed restoration of order dated 10.11.2020 passed by respondent No.3. Hon'ble Minister observed that inquiry report was only based on statements of card holders recorded at village panchayat, consequently, noted that re-inquiry is not necessary but for the defaults on part of respondent No.5, censure is given and fine of Rs.5,000/- is imposed. Perusal of orders of respondent Nos.1 and 2 depict that there was no valid inquiry as regards to the complaints against respondent No.5. Although thrice the inquiry ordered, it was not in accordance with prescribed procedure. Even assuming that there was some substance in the complaints, the penalty is imposed upon respondent No.5. It is matter of record that petitioner is distributing foodgrains using E-POS machine and there is no complaint about distribution. Online system of distribution records distribution in range of 92.71 to 95.89 on month to month basis as per as reported by Tahsildar. In this background, no purpose would be served directing further inquiry in the matter. The Hon'ble Minister in his discretion

took the pragmatic view of the matte.

8 So far as petitioner's contention that his Revision Application is not decided, it can be observed that petitioner was also heard by Hon'ble Minister, his Revision Application was also taken into consideration. Reply filed on behalf of State stipulates that parties were heard on both the Revision Applications before passing impugned order. In that view of the matter, in fact, Revision Application filed by petitioner could have been simply disposed of in view of final order passed in Revision of respondent No.5. No prejudice is caused to petitioner. In that view of the matter, no jurisdictional error is discernible, which would warrant interference of this Court under Article 227 of the Constitution of India. Hence, the order.

ORDER

1 Writ Petition stands dismissed.

2 Rule is discharged.

(S.G. CHAPALGAONKAR)
JUDGE

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