

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9901 OF 2024

Dattatray Bhagwan Shinde & Anr.	...Petitioners
Versus	
The State of Maharashtra Through Hon'ble Minister Food And Civic Supply Dept And Ors.	...Respondents

....

Mr. Amit Sale, for the Petitioners.

Mr. Rushikesh Kale for Respondent No.4.

Ms. V.R. Raje, A.G.P. for the Respondent – State.

....

CORAM	:	AVINASH G. GHAROTE, J.
DATE	:	23rd JULY, 2024

P.C.:

1. Heard finally. On 18.07.2024 the following position was recorded by me :

1. It is not in dispute, that the order dated 11.04.2023 (Page-18), by which the publication issued for tendering the Fair Price Shop License for Grampanchayat Pimpalner was cancelled and it was directed that in the subsequent publication for inviting tenders/offers for Fair Price Shop at Pimpalner also be included. Since this order has not been challenged by anyone that has attained finality. It is however contended that by an order dated 22.09.2023 the District Supply Officer (DSO) has allotted the license to the respondent No.4, who had applied in the original tender process, which had been set aside by the order dated 11.04.2023. The order dated 22.09.2023 by which the DSO has granted the license to respondent No.4

(Page-30) in a challenge before the Deputy Commissioner of Supply has been set aside by the order dated 11.12.2023 (Page-51), which in turn has been set aside by the respondent No.1 by his order dated 28.06.2024 (Page- 60). It is contended that once the entire tender process was cancelled by the order dated 11.04.2023 it was not permissible for the respondent No.3 to have allotted the license to the respondent No.4 or for the respondent No.1 to uphold the same.

2. Mr. Rushikesh Kale, learned counsel for the respondent No.4 supports the impugned order and contends that inspite of the order dated 11.04.2023, it was open for the respondent No.3, to have allotted the license to the respondent No.4. A dispute has arisen, as to whether the actual supply has been commenced by respondent No.4, learned A.G.P. to take instructions and make a statement in that regard on Monday i.e. on 22nd July 2024.

3. List the matter on 22nd July 2024.”

2. Today, the learned A.G.P. upon instructions makes a statement that the actual supply to the respondent No.4 has not commenced, in view of which, the allotment in favour of the respondent No.4, cannot be sustained as the order dated 11.04.2023 by which the same as done has been cancelled and in absence of challenge thereto has attained finality. In that light of the matter, the revision filed by respondent No.4 could not have been entertained and allowed by respondent No.1, considering which the impugned order dated 28.06.2024 (Page-60) is hereby quashed and set aside and that of the Commissioner of Supply

dated 11.12.2023 is restored (Page-59). The Authorities, therefore shall proceed to take steps to allot the Fair Price Shop, to a suitable person by following the procedure as contemplated under the statute. This however, shall be subject to the final result of the revision filed by the petitioner on 05.02.2024 (Page-31), which it is presumed shall be decided as early as possible and not beyond the period of four weeks from today. Petition is accordingly disposed off in the aforesaid terms.

(AVINASH G. GHAROTE, J.)