

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

WRIT PETITION NO.9992 OF 2010

RAMESHWAR
LAXMAN
DILWALE

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Kupwad Vivid Karyakari Sahakari }
Seva Sanstha, Kupwad, }
through its Chairman/ Secretary }
Taluka: Miraj, District Sangli. } **.. Petitioner**

Vs.

1. The Hon'ble Minister, }
Ministry of Food, Civil Supplies }
and Consumer Protection }
having its office at Mantralaya, }
Mumbai – 400 032. }
2. Dy. Commissioner (Supply) }
Pune Division, Pune. }
3. District Supply Officer & }
Food Supply Officer, Sangli }
4. Padmabhushan Vasant Patil }
Prathamik Sahakari Grahak }
through, the Liquidator }
Co-operative officer, Class-II }
Office of Dy. Registrar Co-op. }
Society Miraj, Dist. Sangli. } **.. Respondents**

...
Mr. Nagesh Y. Chavan, Advocate for the petitioner.
Mr. N. C. Walimbe, Additional Government Pleader with Mr. N. K. Rajpurohit, Assistant Government Pleader for the respondent nos.1 to 3-State.

...

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 24th SEPTEMBER, 2024.

ORAL JUDGMENT :(PER : A. S. CHANDURKAR, J)

1. Despite issuance of notice to the respondent no.4-Society it has not appeared to contest the writ petition. As per the report of the Bailiff it has been stated that there is no co-operative society answering the description of the respondent no.4 after its liquidation. The learned counsel for the petitioner has tendered communications dated 31/07/2024 and 08/07/2024 to indicate that the respondent no.4-Society after its liquidation is not shown to exist. Since the writ petition of the year 2010, we have proceeded to consider the challenge on its merits.

2. It is the case of the petitioner-Co-operative Society that it is operating four fair price shops within its territorial jurisdiction. On noticing certain shortcomings at one fair price shop, a show cause notice dated 30/03/2009 came to be issued by the District Supply Officer seeking the Society's explanation. The Society furnished its explanation in that regard after which the District Supply Officer passed an order dated 17/04/2009 holding that the Society had breached conditions of the allotment. Its license came to be cancelled after forfeiting the amount of security deposit. Being aggrieved, the Society challenged the said order before the Deputy Commissioner (Supply). By order dated 07/07/2009, the revision application was dismissed and the order passed by the District

Supply Officer on 17/04/2009 was confirmed. Not being satisfied with the aforesaid order, the Society approached the State Government. On 18/03/2010, the Hon'ble Minister, Ministry of Food, Civil Supplies and Consumer Protection partly allowed the revision application and set aside order dated 10/07/2009 and 17/04/2009. He imposed fine of Rs. 5,000/- for the irregularities committed. Further directions were also issued in the matter. It appears that the respondent no.4- another co-operative society filed a review application before the State Government. On 18/08/2010, the Hon'ble Minister set aside his earlier order dated 18/03/2010 and restored the orders passed by the District Supply Officer and Deputy Commissioner (Supply). Being aggrieved, the Society has challenged the aforesaid order.

3. We have heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent nos.1 to 3. Perusal of the order dated 18/03/2010 passed by the Hon'ble Minister in the revision application preferred by the Society against the order passed by the Deputy Commissioner (Supply), it can be seen that after noticing that the fair price shop was being run by a co-operative society, the Hon'ble Minister was of the view that one opportunity ought to be given to the said

Society for conducting the fair price shop, various directions were issued including levying an amount of penalty of Rs.5,000/-. The subsequent order passed in exercise of review jurisdiction dated 18/08/2010 does not indicate as to how the respondent no.4-Society was aggrieved by the earlier order. Though the locus of the said Society was questioned, its review application was entertained without going into that aspect. Thereafter the matter was re-considered as if revisional jurisdiction and not review jurisdiction was being exercised. The order dated 18/08/2010 does not indicate as to how the earlier order dated 18/03/2010 passed by the same Hon'ble Minister was required to be reviewed. There is no finding recorded that there was any error apparent in the earlier order. In absence of any ground being made out to exercise review jurisdiction, a re-consideration of the entire matter afresh was not permissible. The order dated 18/08/2010 proceeds to decide the revision application afresh ignoring the fact that the said revision application had been decided earlier on 18/03/2010.

We therefore find that in the absence of any ground whatsoever being made out to exercise review jurisdiction, the Hon'ble Minister committed a jurisdictional error in setting aside his earlier order dated 18/03/2010 and passing a fresh order. On this ground, the impugned order is liable to be set aside and the

original order ought to be restored.

4. Hence for the aforesaid reasons, the order dated 18/08/2010 passed in exercise of review jurisdiction is set aside and the order dated 18/03/2010 originally passed by the Hon'ble Minister, Ministry of Food, Civil Supplies and Consumer Protection is restored. The Society shall ensure that the fair price shop is operated in accordance with the terms of allotment. Rule is made absolute in aforesaid terms with no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]