



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

Writ Petition No.4970 of 2021

RAMESH S/O SADASHIVRAO RAJGURE

VS

**THE STATE OF MAHA., THR. THE MINISTER, MINISTRY OF FOOD, CIVIL
SUPPLIES AND CONSUMER PROT., MUMBAI**

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Mahesh Rai, Advocate for the Petitioner/s

Shri H.R. Dhumale, AGP for the Respondent Nos.1 to 3/State

Shri Kalyan Chiwarkar, Adv. h/f Shri Anand Parchure, Adv. for the
respondent No.4

CORAM : ANIL S. KILOR, J.

DATED : 21.02.2024

1. Heard.

2. A fair price shop licence, which is in question in the present matter, was in the name of the Sadashiv Rajgure of whom the petitioner and the respondent Nos.4 to 9 are the legal heirs. The dispute arose between the petitioner and the respondent Nos.4 to 9 as regards transferring the fair price shop licence in question in the name of the legal heirs after the death of Sadashiv Rajgure.

3. The Government Policy in this regard, which is stipulated in the Government Resolution (GR) dated 22.12.1997, shows that, while giving licence in favour of any of the legal heirs, there shall be no dispute between the legal heirs and there shall be unanimity as regards transfer of licence in favour of the legal heirs.

4. In the present matter, admittedly, there is a dispute between the legal heirs and there is no unanimity either in favour of the petitioner or in favour of the respondent No.4, in whose favour the impugned order was passed by the Hon'ble Minister, directing to transfer the licence in the name of respondent No.4.

5. The Hon'ble Minister, while issuing such direction, has held that out of 11 legal heirs, only 2 are in favour of the petitioner and 9 are in favour of the respondent No.4. The Hon'ble Minister further observed that as per the Government Policy, the respondent No.4 is entitled to have a licence in his name.

6. However, there is no mention about any such terms and conditions or any rule which permits that the licence be transferred in the name of the legal heir, who is having support of maximum legal heirs.

7. The Government Policy referred herein above, says contrary to it. The said GR specifically states about precondition to have unanimity and no dispute in the legal heirs about transfer of licence in favour of the legal heir.

8. Thus, it is apparent on the face of the impugned order that the order is vague and it was passed without taking into consideration the terms and conditions of the GR dated 22.12.1997.

9. In the circumstances, I am of the opinion that this matter needs to be remanded back to the Hon'ble Minister for deciding the same afresh, after hearing both the parties. Accordingly, I pass the following order:

- (i) The writ petition is partly **allowed**.
- (ii) The impugned order dated 19.07.2021 passed by Hon'ble Minister, is hereby quashed and set aside.
- (iii) The matter is remanded back to the Hon'ble Minister for deciding the same afresh, after hearing both the parties, within a period of three months from the date of appearance of the parties.
- (iv) The parties are directed to remain present before the Hon'ble Minister on **13.03.2024 at 12.00 noon**.

10. In the meantime, the respondent No.4 is permitted to run the licence till the fresh decision by the Hon'ble Minister.

[ANIL S. KILOR, J.]