



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1642 OF 1998

Ganpat Shankarrao Paighan Since deceased,
Through his LR's

- 1 Sindhubai Ganpatrao Paithan
Age : 75 years, Occu : Household,
 - 2 Bhausahab Ganpatrao Paithan
Age : 45 years, Occu : Business,
 - 3 Krishna Ganpatrao Paithan
Age : 42 years, Occu : Business,
 - 4 Ravindra Ganpatrao Paithan
Age : 40 years, Occu : Business,
 - 5 Balram Ganpatrao Paithan
Age : 38 years, Occu : Business,
All residing Shevgaon, Tq. Shevgaon.
Dist. Ahmednagar
- **Petitioners**

Versus

- 1 The State of Maharashtra
 - 2 The Collector, Ahmednagar
 - 3 The Tahsildar, Shevgaon,
Tq. Shevgaon, Dist. Ahmednagar
- **Respondents**

Advocate for Petitioners : Mr. C. K. Shinde
AGP for Respondents-State : Mr. Vaishali Patil (Jadhav)

CORAM : MANJUSHA DESHPANDE, J.

DATE : 29 JANUARY, 2025

JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.

2. In this writ petition, petitioner is challenging the communication dated 19.03.1998 issued by the Additional Tahsildar, Ahmednagar, wherein the request of petitioner to allow him to operate his petrol pump namely Seva Auto Centre Petrom Pump at Shevaon, which he was operating since the year 1970 was refused referring to the application of petitioner dated 06.03.1998, the Additional Tahsildar, Ahmednagar, has issued the communication informing that since his case is under the police investigation, he cannot be allowed to operate the petrol pump. The communication dated 19.03.1998 is under challenge in this writ petition.

3. After filing the writ petition, this Hon'ble Court had passed an order of issuing notice and granted interim relief in terms of prayer Clause (D), wherein the prayer of the petitioner to allow him to operate the Retail Outlet known as Seva Auto Centre at Shevgaon, has been allowed.

4. The learned Advocate for the petitioner submits that the during the pendency of the present writ petition, interim relief was

continued and the petitioner is operating the petrol pump till date. The criminal proceeding which was pending against the petitioner has been decided by the Judicial Magistrate First Class, Shevgaon vide judgment and order dated 24.04.2008. He has been acquitted of the offence punishable under Section 3 read with Section 7 of the Essential Commodities Act. Considering that he has been acquitted, nothing remains in the present writ petition since he had challenged the communication refusing him permission to operate the petrol pump.

5. On previous occasions, the learned AGP sought time to take instructions about whether any appeal has been filed against the order of acquittal of the petitioner. Learned AGP places on record the communication dated 15.01.2025 wherein it is stated that appeal proposal in R.T.C. No. 21 of 2001 has not been received from the concerned Public Prosecutor and therefore, the Law and Judiciary Department has not issued any instructions for preferring any appeal in the said case. The communication issued by the Under Secretary (Law) is taken on record and marked as 'X' for identification.

6. In view of the communication informing that no appeal has been preferred, no proceeding is pending against the present petitioner. Hence, considering the factual position, there is no hurdle

to allow the writ petition as prayed due to acquittal of the petitioner.

Hence, following order :

ORDER

- I. Writ Petition is **allowed** in terms of prayer Clause (B) and (C).
- II. The communication dated 19.03.1998 passed by the Additional Collector, Ahmednagar, stands quashed and set aside.
- III. Rule is made absolute in above terms. Writ petition stands disposed of.

[MANJUSHA DESHPANDE, J.]

Omkar Joshi