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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2584 OF 2020

Dr. Babasaheb Ambedkar Cooperative Society
Through Chairman, Laxman Punjaji Bansode

PETITIONER

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. K. M. Nagarkar h/f Mr. R. S. Shejul Advocate for Petitioner
Mrs. M. L. Sangit, AGP for Respondent - State
.....

[CORAM : MANJUSHA DESHPANDE, J.]

DATE : 3rd FEBRUARY, 2025

ORDER :

1. Petitioner has challenged order dated 17th July, 2019 passed by State Minister, Food, Civil Supply and Consumer Protection Department, Mantralaya Mumbai in Appeal No. 2016/SB/RP-494 & 496.

2. It is the contention of the Petitioner that under the authorization of the competent authority, he was holding licence for running fair price shop and also kerosene license. There were no complaints against the Petitioner by card holders regarding distribution of food grains or kerosene. No irregularity was committed by the Petitioner while running the fair price shop. It is submitted that there was a scam about distribution of food

grains from Government Godown. It is his contention that from the articles published in newspaper, it appeared that Government Employees from Supply Department have committed fraud in supply of food grains from Government Godown. After the publication of news items, complaint came to be lodged by Investigating Officer, Kotwali Police Station, Parbhani in August, 2016 against the persons involved in Crime No. 305 of 2016 punishable under sections 420, 409, 468, 471 read with 34 of the Indian Penal Code and under sections 3 and 7 of the Essential Commodities Act.

3. During investigation of the said crime, 37 persons were found involved in the crime and most of them were government servants. During investigation son of the petitioner Pawan Laxman Bansode was arrested and was subsequently released on bail.

4. It is submitted by the learned Advocate for the Petitioner that Petitioner has no concern with the said crime and his son was arrested with mala fide intention in order to suspend fair price shop licence of the Petitioner and also to malign his image. During investigation, Deputy Superintendent of Police, Parbhani directed District Supply Officer, Parbhani that son of the Petitioner is involved in the crime and had been arrested. It was

also submitted in the report that there are certain discrepancies found in the fair price shop of the Petitioner and irregularities are committed by the Petitioner while distribution of food grains and the food grains were black marketed. As a result, there was fraud played on the Government. Due to the report submitted by the Investigating Officer, authorization of the fair price shop of the Petitioner was cancelled vide order dated 20th September, 2016.

5. Being aggrieved by the order of cancellation of licence of his fair price shop, by District Supply Officer, Parbhani the petitioner filed Revision Application No. 2016/SB/RP-494 & 496 on 18th November, 2016. During Pendency of the Revision Application, the District Supply Officer, Parbhani issued notification / proclamation on 10th August, 2017 for allotment of fair price shop. The Revision Application filed by the Petitioner was rejected by the Deputy Commissioner (Supply), Aurangabad on 16th October, 2017. The Petitioner, thereafter, approached the Minister, Food, Civil Supply, Consumer Protection Department.

6. It is contended by the Petitioner that along with the Petitioner other similarly situated persons who were holding fair price shop licence and kerosene licence, also approached the Minister, challenging the similar orders. In their cases, Revision Applications have been allowed by the Minister, however,

Revision Application filed by the Petitioner has been rejected.

7. Learned Advocate for the Petitioner relies on the orders passed by the Minister in cases of Pratibha Pradip Damkande, Janardhan Manikrao Deshmukh and Sheshrao Vitthal Panchal who are exactly similarly placed like the Petitioner. In their cases, the Minister has allowed the Revision Applications filed by them and set aside orders of rejection of licence passed by the Deputy Commissioner. It was further directed that licence fee should be deposited with the Government and the concerned licence holders shall distribute food grains only through the POS machines and they will also undertake that in future they will not indulge in any malpractice or irregularity in distribution of food grains. On the condition of undertaking being taken from the concerned applicants, their licence were directed be restored. It was further directed that after restoration of the licence, statements of card holders who are beneficiaries should be recorded and registers maintained in the shop should be inspected. On the inspection of documents, if it is found that the concerned licence holders have committed any malpractice, appropriate action as permissible under the law should be taken against them. On the said terms and conditions, licence of the respective shop holders were restored.

8. However, in the present case, the Revision Application filed by the Petitioner has been rejected out rightly. The Reasons assigned by the Minister for rejection of Revision Application appears to be that while inquiring about the stage of the investigation, it was informed that there is no positive order passed in favour of the Petitioner. Therefore, considering the offence registered against the son of the Petitioner and in absence of any positive order in his favour during the investigation, Revision Application of the Petitioner has been rejected by the Minister.

9. It is the contention of the Petitioner that so far as the first order of cancellation of licences is concerned, it is passed without any notice or even for that matter any inquiry. Therefore, the said order becomes unsustainable, since the principles of natural justice have not been followed. Even otherwise, so far as the scam on the basis of which offence has been registered against son of the Petitioner is concerned, the Godown Keeper has taken the responsibility of malpractice and irregularities committed in the Government Godown. Therefore, there is no allegation as such, against the Petitioner of any irregularity or malpractice in the fair price shop. All the allegations regarding malpractice and fraud committed, are in respect of the Government Godown. Even though the Petitioner has pointed out all these facts before

the Deputy Commissioner (Supply) as well as the Minister, it were not taken into consideration and the Revision Application has been rejected.

10. Learned AGP has opposed the prayers made in the Petition, relying on the affidavit. It is her contention that due to involvement of the son of the Petitioner in the crime, the licence of the fair price shop of the Petitioner was cancelled and the order impugned has been passed. So far as orders passed by the Minister in the Revision Applications filed by the similarly situated persons, is concerned, it has not been denied in the affidavit.

11. After going through the order passed by the Minister in the case of the Petitioner as well as orders in the cases of similarly situated persons, it appears that though favourable orders setting aside order of District Supply Officer as well as Deputy Commissioner (Supply) have been passed by the Minister in case of the similarly situated persons, same benefit is not extended to the Petitioner. Though in the Revision Applications filed by similarly situated persons, their licence have been restored on certain conditions, the same benefit has not be extended to the Petitioner, though he was similarly situated. In the case of the Petitioner also the order of cancellation of licence without

affording opportunity of hearing was passed, which is bad in law. Therefore, the order passed by the Minister in the case of the Petitioner is quashed and set aside and the Respondent Authorities are directed to restore licence of the fair price shop of the Petitioner on the same terms and conditions as have been directed by the Minister in cases of Pratibha Pradip Damkande in Revision No. Veyam-1019 / PraKra.160 / Napu.21, Janardhan Manikrao Deshmukh in Revision No. Veyam-1019 / PraKra.173 / Napu.21, and Sheshrao Vitthal Panchal in Revision No. Veyam-1019 /PraKra.159 / Napu.21.

12. Writ Petition is allowed in above terms.

**[MANJUSHA DESHPANDE]
JUDGE**