



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 4853 OF 2022

Ganpat Shamrao Patne

....Petitioner

VERSUS

The State of Maharashtra & others

.....Respondents

.....

Mr. S. B. Madde, Advocate for the Petitioner.

Mr. N. D. Raje, AGP for the State.

CORAM : R. M. JOSHI, J.

DATE : 6th MARCH, 2025.

PER COURT :

1. This petition takes exception to the order dated 23.03.2021 passed by the Minister of Consumer Affairs, Food and Public Distribution whereby the review application filed by Petitioner came to be rejected.

2. Petitioner is fair price shop owner holding licence for last 20 years. Petitioner has no history of any complaint except for the complaint in hand. Respondent No. 5 lodged complaint with the District Supply Officer, Latur, against Petitioner levelling various allegations against him. This complaint was responded by the Petitioner denying the allegations. Pursuant to the said complaint,

inspector was called upon to conduct inspection into the said complaint. He recorded statements of the consumer and submitted report holding Petitioner guilty of the charges. In the proceeding before the District Supply Officer, said report of inspector was accepted and on the basis of the same, fair price shop licence issued in favour of Petitioner came to be cancelled. Being aggrieved by the said order, appeal came to be filed before the Deputy Commissioner (Supply), Aurangabad in proceeding bearing No. जल.क.2016/एसवी/रिपी 313. This authority after going through the report submitted by inspector has observed that said report has been prepared without visiting fair price shop and that the enquiry was conducted at Gram Panchayat office. It is also observed therein that no sufficient enquiry is conducted. There is no ascertainment of the record maintained by the Petitioner. Statement is recorded only of 20 persons out of 160 card holders. There is further observation that in the form and report discrepancy is found. In view of these findings, order passed by the District Supply Officer dated 08.01.2016 was set aside and enquiry was directed afresh with further direction that atleast statement of 50% card holders be recorded. This order came to be challenged unsuccessfully. Hence, this petition.

3. Learned counsel for Petitioner submits that the Minister while passing both the orders has committed error in not considering the reasons recorded by the Deputy Commissioner (Supply) while setting aside order passed by the District Supply Officer dated 08.01.2016. It is his submission that while recording any finding as to the correctness or otherwise of the said order, order came to be set aside confirming the order of cancellation of the licence. He drew attention of the Court to the record which was called for perusal.

4. Learned AGP sought to support the order by contending that there are serious allegations against the Petitioner of not conducting fair price shop in the interest of the consumers. It is his submission that the record is sufficient to indicate that the number of card holders have made grievance against the Petitioner.

5. None for Respondent No. 5 though served. There is reason to believe that Respondent No. 5 is not interested in opposing the petition.

6. There cannot be any dispute about the fact that when there are allegations/charges levelled against the fair price shop

owner of not conducting the business in the interest of the consumers, there has to be a detailed enquiry conducted by the inspector. Apart from this, there must be material collected during the inquiry in order to confirm/prove charges. In the instant case, perusal of record indicates that the inspector did not visit the shop for conducting inquiry. The statements are recorded in the office of the Gram Panchayat. From some of the statements, it can be gathered that the signatures were already obtained and thereafter statement is written thereon. In this regard, reference can be made to page No. 30 of the record and proceeding. Apart from this, perusal of the record does not indicate that the inspector visited the shop and the documents maintained by the Petitioner were verified in order to arrive at conclusion as drawn in the report. The Deputy Commissioner (Supply), in order dated 04.05.2018 has rightly dealt with these issues and directed fresh inquiry into the allegations.

7. The Ministers, on the other hand, have not taken into consideration the said report and without recording any reason for not accepting the findings recorded by the Deputy Commissioner (Supply), mechanically set aside the said orders. This Court therefore finds no substance in the challenge to the order impugned.

The order passed by the Deputy Commissioner (Supply) meets the ends of justice. It is open for the concerned authorities to satisfy themselves after conducting enquiry as directed therein in order to take appropriate decision.

8. As a result of above discussion, Petitioner has made out a case for causing interference in the impugned order. Impugned order therefore stands set aside. Order passed by the Deputy Commissioner (Supply) dated 04.05.2018 stands restored.

(R. M. JOSHI)
Judge

dyb