Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 831 OF 2015
WITH
INTERIM APPLICATION NO.2213 OF 2026

Savarmal Sitaram Parekh … Petitioner
V/s.
The State of Maharasthra and Others … Respondents

Mr. Sharad S. Suryavanshi, for Petitioner.

Ms. Shulbha Chipade,for State Respondent nos. 1 to 3.

CORAM : AMIT BORKAR, J.

DATED : JUNE 08, 2026

P.C.:

1. The present writ petition, instituted under Article 226 of the Constitution of India, takes exception to the order dated 11th September, 2014 passed by respondent No.3, whereby the petitioner has been directed to deposit an amount of Rs.1,27,332/-, being the value of the commodities alleged to have been misappropriated by the petitioner.

2. The facts giving rise to the present petition, briefly stated, are that the petitioner is operating a fair price shop pursuant to a licence granted by respondent No.1 under the relevant statutory provisions governing the public distribution system. It is the case of the respondents that an inspection of the petitioner's fair price shop was conducted on 11th February, 2014, during which certain irregularities and violations were allegedly noticed. Acting upon the inspection report and the alleged irregularities recorded therein, respondent No.1, by an order dated 12th February, 2014, suspended the licence granted in favour of the petitioner. Simultaneously, a First Information Report also came to be lodged against the petitioner in relation to the said allegations.

3. Being aggrieved by the order suspending the licence, the petitioner preferred a revision before the competent Revisional Authority and contested the allegations levelled against him on various grounds. Upon consideration of the matter, the Revisional Authority did not interfere with the findings recorded against the petitioner regarding the alleged irregularities and, in effect, affirmed the same. However, while disposing of the revision proceedings, the Revisional Authority imposed a monetary penalty of Rs.10,000/- upon the petitioner and further directed the petitioner to deposit an amount of Rs.1,27,332/- towards the value of the commodities alleged to have been misappropriated.

4. On a careful perusal of the provisions of the relevant Fair Price Shop Control Order, the provisions of the Essential Commodities Act, 1955 and the scheme of the statutory framework governing distribution of essential commodities, this Court finds considerable substance in the contention advanced on behalf of the petitioner regarding the limits of the revisional jurisdiction. The revision proceedings before the Revisional Authority had arisen from the order suspending the licence of the petitioner. The subject matter brought before the Revisional Authority was, therefore, confined to examination of the legality, propriety and correctness of the order of suspension passed by the competent authority. The revisional power could have been exercised for the purpose of affirming the order, setting aside the order, modifying the order, or remanding the matter for fresh consideration in accordance with law. However, the revisional jurisdiction cannot travel beyond the boundaries prescribed by the statute itself.

5. A revisional authority, being a creature of the statute, can exercise only such powers as are expressly conferred or those which are necessarily incidental to the exercise of such powers. No provision has been pointed out before this Court under the Control Order or under the Essential Commodities Act authorising the Revisional Authority, while deciding a challenge to an order of suspension, to independently assess the value of alleged shortages, determine the quantum of alleged loss suffered by the State, impose a monetary penalty, or direct recovery of an amount said to represent misappropriated commodities. Such powers have serious civil consequences and affect valuable rights of the licensee. Therefore, the source of such authority must be traceable to a specific statutory provision. In absence of such statutory sanction, no authority exercising quasi judicial powers can assume unto itself a jurisdiction which the legislature has not chosen to confer.

6. The impugned revisional order indicates that while dealing with the challenge to suspension of licence, the Revisional Authority proceeded further and directed the petitioner to deposit an amount of Rs.1,27,332/-, treating the same as the value of commodities allegedly misappropriated, and also imposed a fine of Rs.10,000/-. Such directions, in substance, amount to creation of an independent monetary liability against the petitioner. The power to create such liability cannot be inferred merely because the authority possesses power to examine the validity of an administrative order. The distinction between a power to regulate a licence and a power to impose financial consequences is required to be kept in view. One cannot be substituted for the other. Merely because allegations of irregularities were under consideration, the Revisional Authority could not enlarge the scope of the proceedings and assume powers of recovery and penalty in the absence of an enabling provision.

7. The requirement that every statutory authority must act within the four corners of the statute is not a matter of formality but a fundamental principle governing administrative and quasi judicial action. Once it is found that the authority lacked jurisdiction to impose such fine and direct repayment of the alleged value of commodities, the impugned directions cannot be sustained irrespective of the merits of the allegations against the petitioner. For these reasons, this Court is of the considered opinion that the Revisional Authority exceeded the limits of its jurisdiction while issuing the aforesaid directions and, to that extent, the impugned order becomes legally unsustainable.

8. At the same time, the matter cannot be concluded merely by setting aside the impugned order. A reading of the revisional order shows that the Revisional Authority has recorded findings on the factual allegations levelled against the petitioner and has substantially accepted the case of the department regarding the irregularities allegedly noticed during inspection. Though this Court has found that the authority exceeded its jurisdiction while imposing the monetary liability and fine, it does not necessarily follow that the findings on the alleged irregularities automatically disappear or stand adjudicated in favour of the petitioner. The legality of those findings and their impact upon the order of suspension still require an appropriate consideration within the permissible limits of the revisional jurisdiction.

9. It is also required to be noted that the petitioner had approached the Revisional Authority specifically challenging the suspension of the licence and had raised several contentions disputing the allegations recorded by the inspecting authorities. The revisional order, however, appears to have shifted its focus from examination of the correctness of the suspension order to determination of monetary consequences flowing from the alleged misconduct. In that process, the core issue which arose for consideration in the revision, namely whether the suspension order was justified on facts and in law, has not received the independent and focused examination which it deserved. Interests of justice would therefore require that the petitioner be afforded a proper opportunity to place all contentions before the Revisional Authority and that the authority, in turn, examine the matter strictly within the parameters prescribed by law.

10. This Court is conscious that findings relating to irregular distribution or diversion of essential commodities have serious implications, both for the licensee and for the public distribution system. Equally, any adverse action against a licence holder must rest upon a decision rendered by a competent authority acting within the limits of its jurisdiction. The balance between these competing considerations can be maintained only by restoring the revision application for fresh consideration. Such a course would neither prejudice the petitioner nor deprive the authorities of an opportunity to justify the suspension order on the basis of the material available on record.

11. Accordingly, while the impugned order cannot be sustained in its present form owing to the jurisdictional error discussed hereinabove, the ends of justice would be better served by restoring the revision application to the file of the Revisional Authority for a fresh decision. The Revisional Authority shall reconsider the revision application independently, afford due opportunity of hearing to all concerned parties, examine the validity of the suspension order on its own merits and pass a reasoned order in accordance with law, uninfluenced by any observations made in the impugned order relating to the monetary liability imposed upon the petitioner. It is in these circumstances that the following order is passed.

ORDER

I. The impugned order dated 11th September, 2014 is hereby quashed and set aside. The revision application preferred by the petitioner is restored to the file of respondent No.1 for fresh adjudication.

II. Respondent No.1 shall reconsider and decide the revision application afresh after affording an adequate opportunity of hearing to all concerned parties and in accordance with law.

III. In view of the fact that the petitioner has been permitted to operate the fair price shop during the pendency of the present writ petition, the petitioner shall be entitled to continue operating the said fair price shop during the pendency of the revision proceedings, subject to strict compliance with the terms and conditions of the licence.

IV. The amount deposited by the petitioner in this Court pursuant to the order dated 13th January, 2016 shall be permitted to be withdrawn in accordance with law.

V. Respondent No.1 shall endeavour to decide the revision application within a period of eight weeks from the date of receipt of a copy of this order.

VI. The parties shall appear before the Revisional Authority on 22nd June, 2026 at 3.00 p.m. It is clarified that the permission granted to the petitioner to operate the fair price shop shall remain operative until the revision application is finally decided and shall abide by the outcome thereof.

VII. The writ petition is accordingly disposed of.

VIII. In view of the disposal of the writ petition, the Interim Application, if any, also stands disposed of.

(AMIT BORKAR, J.)