



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 9 OF 2025

Adwasi Bhau-Udashiya Santha Bori, Nagpur (Gramin),
Through its President Nandakishore Namdeo Gaurkar,
R/o Ward no.3 Butibori Nagpur (Gramin).

PETITIONER

VERSUS

1. State of Maharashtra, Minister (Food and Supply),
Through its Secretary, Department of Food and Supply,
Mantralaya, Mumbai-32.
2. The Deputy Commissioner (Supply),
Nagpur Division, Nagpur.
3. District Supply Officer, Collector Office, Nagpur,
Tahsil and District Nagpur.
4. Bhagyashali Mahila Audhogik Sahakari Sanstha
Maryadit, Through its President Anita R. Khante
and through its Secretary Kalabai Ambulkar,
Office at Nimba, Nagpur (Rural), Tahsil and District
Nagpur.

Alternate Address:

R/o Plot 19-A, Tapasya Square, New Amar Nagar,
Manewada, Nagpur – 440034.

RESPONDENTS

Mrs. A.R. Taiwade & Shri A.C. Suryawanshi, counsel for the petitioner.
Ms S.N. Thakur, Assistant Government Pleader for the respondent nos.1 to 3.
Shri Ketan Ganorkar, counsel for the respondent no.4.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : MARCH 30, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioner-Society challenges the order dated 06.03.2024 passed by the Hon'ble Minister, Food and Civil Supplies Department thereby directing the transfer of the fair price shop run by the respondent no.4 from Mouza Nimba, Taluka Nagpur Gramin to Mouza Butibori, Taluka Nagpur Gramin.

3. The petitioner-Society is running a fair price shop at Butibori, Taluka Nagpur Gramin. The respondent no.4 is running a fair price shop at Nimba, Taluka Nagpur Gramin and on 23.05.2014 filed an application before the District Supply Officer seeking transfer of their shop from Nimba to Kalmeshwar. The District Supply Officer rejected the application by order dated 26.05.2014 by observing that there is no provision for transfer of fair price shop from one place to another. The respondent no.4 challenged this order before the Hon'ble Minister by way of Revision Application and the Hon'ble Minister allowed the application thereby directing transfer of the fair price shop from Nimba to Kalmeshwar. This order was challenged by the Fair Price Shop Licensees of Kalmeshwar vide Writ Petition no.7299 of 2014 which came to be allowed on 14.06.2018. Thereafter the respondent no.4 again submitted an application to the District Supply Officer and requested for the transfer of the shop from Nimba, Taluka Nagpur Gramin to Shahu Nagar. The District Supply Officer rejected the application on the similar ground observing that there is no provision and this order was also upheld by the Deputy Commissioner (Food and Supply), by the order dated 03.02.2021. The respondent no.4 challenged this order dated 03.02.2021 before the Hon'ble Minister by way of a Revision Application and by order dated 06.03.2024 the revision application came to be allowed and the fair price shop of the respondent no.4 was directed to be transferred from Nimba to Butibori. The petitioner herein who is already running a fair price shop at Butibori has challenged the order passed by the Hon'ble Minister by way of instant petition.

4. Mrs. A.R. Taiwade, learned counsel for the petitioner submitted that the impugned order passed by the Minister is without considering the purport of the provisions of law which do not contain any provision for transfer of fair price shop from one place to another. She also submitted that the impugned order is in teeth of the order passed by this Court in Writ Petition no.7299 of 2014 which was passed by considering the position of law. She also submitted that the Hon'ble Minister has failed to consider the effect of transfer of fair price shop from Nimba to Butibori since the card holders of the petitioner's shop would be distributed resulting in direct loss to the petitioner's running of fair price shop.

5. As against this, Ms S.N. Thakur, learned Assistant Government Pleader for the respondent nos.1 to 3 and Shri Ketan Ganorkar, learned counsel for the respondent no.4 opposed the petition and submitted that the impugned order passed by the Hon'ble Minister is justified in the facts and circumstances of the case. Although the learned Assistant Government Pleader for the respondent nos.1 to 3 was not in a position to pinpoint any provisions of law allowing the authorities to transfer the fair price shop from one place to another, she attempted to justify the impugned order by referring to the reasons recorded by the Hon'ble Minister.

6. Shri Ketan Ganorkar, learned counsel for the respondent no.4 vehemently submitted that the provision of Clause 3(4) of the Maharashtra Scheduled Commodities (Regulation and Distribution) Order, 1975 (for short, 'the Order of 1975') authorizes the District Supply Officer to suspend, cancel or vary the license and therefore the impugned order is

in accordance with law. He submitted that the power to 'vary' the license includes the power to transfer the license. He also submitted that the impugned order of transfer of license does not cause any prejudice to the petitioner-Society since the petitioner-Society is already having more than one thousand card holders and considering the population of village Butibori, the transfer of license will not at all affect the license of the petitioner-Society. As regards the judgment in Writ Petition no.7299 of 2014, he submitted that the same was delivered without considering the purport of Clause 3(4) of the Order of 1975.

7. In the backdrop of these arguments, rival contentions fall for my consideration.

8. While considering the controversy involved in the instant petition, it has to be noted that the respondent no.4 was granted fair price shop license to be run at Nimba, Taluka Nagpur Gramin and the earlier controversy which arose from the direction to transfer the license from Nimba to Kalmeshwar was decided by this Court vide judgment dated 14.06.2018 in Writ Petition no.7299 of 2014. In this background, further request of the respondent no.4 for transfer from Nimba to Butibori was thus required to be considered strictly in accordance with the provisions of law. It has to be noted that there is no provision on the basis of which a fair price shop licensee can seek transfer of its license from one village to another. Precisely for this reason, the District Supply Officer as well as the Deputy Commissioner have rejected the application for transfer.

9. Pertinent to note, the Hon'ble Minister has allowed the application for transfer only by considering the contention that the family of the respondent no.4 is dependent on the income from the said fair price shop. The order of transfer is not passed by relying on any provision of law. The order appears to have been passed only on humanitarian ground by ignoring the possible prejudice to the fair price shop licensee who is already running his license at Butibori.

10. As regard the provision of law, the learned counsel for the respondent no.4 placed reliance on the provision of Clause 3(4) of the Order of 1975 and submitted that this provision empowers the State Government or the Collector to add to, amend, vary, suspend or cancel the authorization of a fair price shop. He submitted that the word 'vary' has to be understood to mean the power with the Authorities to transfer the license from one village to another. He also invited the attention to the dictionary meaning of the word 'vary' and submitted that this word has to be understood in the sense of empowering the Authorities to change everything.

11. After giving anxious consideration to this argument and on perusal of the provision of Clause 3(4) of the Order of 1975, the argument does not appear to be convincing at all. The provision in Clause 3(4) of the Order of 1975 deals with the powers of the State Government or the Collector to pass orders with respect to the license in question and the same cannot be stretched to the extent of empowering the Authorities to pass orders of transferring the license from one village to another to the

detriment of another licensee. Since the counsel for the respondent no.4 did not point out any other provision, it is clear that the impugned order of transfer of license is not backed by any provision of law. Apart from this, it has to be noted that even the District Supply Officer as well as the Deputy Commissioner have categorically recorded the reasons for rejection of the application that there does not exist any provision for transfer of license from one village to another. Hence, the arguments advanced on behalf of the respondent no.4 are not at all acceptable.

12. A perusal of the impugned order reveals that the Hon'ble Minister has allowed the revision application only by considering the contentions of the respondent no.4 about their livelihood. However, in absence of any provision of law, the impugned order allowing the transfer of fair price shop license from one village to another, does not stand to the scrutiny of law. Hence, the order is unsustainable and deserves to be quashed and set aside.

13. In view of above mentioned factual and legal aspects, the writ petition is allowed. The order dated 06.03.2024 passed by the respondent no.1 is quashed and set aside.

14. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)