



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2810 OF 2014

Pujabai S/o. Sukhdev Randhave,
Age : 45 years, Occu. : Business,
R/o. Shendurwada, Tq. Gangapur,
Dist. Aurangabad.

... Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary, Food,
Civil Supplies and Consumer Protection
Department, Mantralaya, Mumbai - 32.
2. The Deputy Commissioner (Supply),
Aurangabad Division, Aurangabad.
3. The District Supply Officer,
Aurangabad.
4. The Tahsildar,
Gangapur, Tq. Gangapur,
Dist. Aurangabad.
5. Shri Subhash S/o. Dagadu Nikam,
Age : 43 years, Occu. : Nil.,
R/o. Shendurwada, Tq. Gangapur,
Dist. Aurangabad.

... Respondents

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Mr. Shrikant T. Veer, Advocate for Petitioner.
Mr. P. P. Dawalkar, AGP for Respondent Nos.1 to 4.
Ms. Pradnya Talekar i/b. Mr. S. B. Talekar, Advocate for Respondent
No.5.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 24 MARCH 2026
PRONOUNCED ON : 06 APRIL 2026

JUDGMENT :

1. Heard. Rule. The Rule is made returnable forthwith. At the joint request of both the sides, the matter is heard finally at the stage of admission.

2. Petitioner challenges the judgment and order passed by the Hon'ble Minister, Food, Civil Supplies and Consumer Protection Department, Mantralaya, dated 06.02.2014 passed in PAM-1013/P.K./86/N.P.21.

3. According to petitioner, she is a woman. That, on 27.06.2005, District Supply Officer under the provisions of The Maharashtra Scheduled Commodities (Regulation of Distribution) Order, 1975 and under the G.R. dated 12.11.1991 and 14.03.2002 allotted Fair Price Shop at village Shendurwada. According to petitioner, the said allotment was under 33% women reservation quota. That, petitioner is still running the Fair Price Shop since allotment dated 27.06.2005.

4. It is further pointed out that, respondent no.5 was previously running Fair Price Shop of village Shendurwada i.e. for the year 2000 to 2003. That, in fact, crime was registered against respondent no.5 and others for lifting excess quota of wheat and rice

than that was permitted and therefore after registration of crime, their licence were cancelled.

5. It is further pointed out that, District Supply Officer Aurangabad had published proclamation in village Shendurwada and had invited applications from eligible candidates for allotment of Fair Price Shop, which had fallen by virtue of cancellation of licence to respondent no.5. It is submitted that, after completing due procedure, the said authority i.e. District Supply Officer by taking recourse to 33% women reservation quota, allotted said shop to the petitioner. That, at no point of time, respondent no.5 or anybody challenged the allotment of Fair Price Shop to the petitioner.

6. That, however, petitioner was surprisingly served with notice by Tahsildar dated 30.01.2013 intimating petitioner regarding hearing conducted by the Hon'ble Minister, Food, Civil Supplies and Consumer Protection Department, with regard to allotment of Fair Price Shop. Learned counsel pointed out that, mere paper notice was served and no copy of any Petition before the Hon'ble Minister was served upon petitioner. However, petitioner made herself available before the Hon'ble Minister on 30.01.2013 and put up application pointing out that she has not been served with any copy of petition memo or annexures and as such she was not in a position to

effectively answer the notice served upon her.

7. It is further pointed out that, the Hon'ble Minister orally directed the District Supply Officer to serve a copy of written memo and annexures and further directed that petitioner to submit her say on or before 04.02.2013.

8. It is further pointed out that, accordingly, petitioner came back to Aurangabad and approached the District Supply Officer and renewed her request to supply information in respect of the proceedings against her shop and its allotment, but said authority orally conveyed that there was no copy of revision petition with him.

9. That, again petitioner remained present before the Hon'ble Minister on 04.02.2013 and again put up grievance of not being made party, no copy of revision petition being given by respondent no.5 or District Supply Officer, and as such, she was not in a position to submit her say.

However, her above contentions were not considered and matter was closed for orders. Finally after gap of one year, an order was passed for extraneous consideration in favour of respondent no.5 by partly allowing the revision petition, setting aside the order of allotment and the order passed by the subordinate officers regarding

allotment of authorization of Fair Price Shop in favour of petitioner, subject to result of decision of this Court by merely imposing a costs of Rs.5,000/-.

10. According to learned counsel for petitioner, Hon'ble Minister has no powers to restore the shop by merely imposing fine. That, in fact, charges against respondent no.5 is grave in nature.

11. It is pointed out that, only on receipt of notice of caveat from the Advocate of respondent no.5, petitioner learnt about the order passed by Hon'ble Minister dated 06.02.2014 and when she made inquiries with the office, it was learnt that, as the petitioner was not party in the proceedings of respondent no.5, she was not entitled to a copy of the order of Hon'ble Minister.

The above action of the Hon'ble Minister, is therefore, questioned by way of writ petition primarily on the ground that, there was initial allotment of Fair Price Shop in her favour and without making her respondent in the revision of present respondent no.5, the Hon'ble Minister was pleased to regularize the earlier allotment by merely imposing fine. Learned counsel pointed out that, there is no provision under the said Act empowering the Hon'ble Minister to regularize the licence, which were cancelled on account of criminal action.

12. Learned counsel for respondent No.5 justified the order of Hon'ble Minister by pointing out that the Government has every power to revoke the action taken by its instrumentality. That, fine amount was levied and respondent had obtained the challan. The copy of the same is also placed on record.

13. Her further contention is that, petitioner has, at the outset, no locus to challenge the order of the Hon'ble Minister, even if she was a beneficiary of the allotment during the interregnum period i.e. during proceedings pending before the Government. In support of above contentions, she seeks reliance on the judgment of the Hon'ble Apex Court in the case of *Poonam v. State of Uttar Pradesh and Ors.*, (2016) 2 SCC 779.

14. After considering the submissions advanced before this court, it appears that, here, in this petition, there is challenge to the order passed by the Hon'ble Minister (Food, Civil Supplies and Consumer Protection Department), in a revision instituted by one Subhash Dagadu Nikam, who is respondent no.5 in this writ petition. He seems to have set up a case in the backdrop of directions of this Court in Writ Petition No.6499 of 2011 and Writ Petition No.6695 of 2011.

15. In the impugned order of the Hon'ble Minister

reproduced the background of the action of cancellation of licence of Fair Price Shopkeepers in Gangapur Taluka during the period from 2000 to 2001, as enquiry revealed that as many as 137 Fair Price Shop owners had lifted excess food grains and diverted the food grains to the market. Therefore, the District Supply Officer, Aurangabad was pleased to initiate action against all 137 shopkeepers including that of respondent no.5 and during the year 2004-2005, a fresh notification was issued for re-allotment of cancelled shop licence to others.

16. It appears that, all shop owners, who were implicated and against whom action was initiated, preferred appeal before the Deputy Commissioner, Aurangabad Division, questioning the cancellation of shops, but learned Deputy Commissioner rejected all their applications primarily on the ground that, investigation is in progress. Against the said order, Fair Price Shopkeepers of Gangapur Taluka seems to have filed revision with the State Government and the Hon'ble Minister rejected the revision applications by order dated 10.09.2004 keeping the subject open during pendency of CID enquiry and against the said order, the Fair Price Shop owners approached this Court by filing various writ petitions, which were clubbed together and were disposed of by order dated 06.06.2008. Order of Government dated 10.09.2004 was set aside with directions to the

Government to rehear the revision application by giving fresh opportunity and it is in such backdrop again shopkeepers including present respondent no.5 had approached the Hon'ble Minister.

17. That, revision of Bhagwan Kachru Gaike and Ramrao Bhaurao Gavhane were rejected and so they filed Writ Petition Nos. 6499 of 2011 and 6695 of 2011, and the same were allowed by setting aside the order, and licences of those petitioners were directed to be revived only on depositing costs of additional grains seek by them and in the backdrop of said order dated 11.09.2012, present respondent no.5 seems to have preferred revision before the Hon'ble Minister, which is now under challenge.

18. Perused the impugned order. Primarily and apparently it is emerging that, the Hon'ble Minister after hearing the parties and more particularly in the light of order passed by this Court dated 11.09.2012, directed reinstatement of shop of respondent no.5 subject to depositing fine of Rs.5,000/-. The Hon'ble Minister was pleased to also observe that above decision shall be subject to the final judicial outcome of the food grain scam unearthed in Gangapur Taluka.

19. Therefore, apparently it is seen that, the Hon'ble Minister has decided the revision of present respondent No.5 on the similar

lines, in which, this Court had passed orders on 11.09.2012 while disposing of the Writ Petition Nos. 6499 of 2011 and Writ Petition No.6695 of 2011.

20. No doubt, that after action of cancellation of licence of Fair Price Shopkeepers by District Supply Officer till orders of this Court, in above writ petitions, during the interregnum period District Supply authorities seems to have issued fresh notification calling fresh application for allotment of fresh Fair Prices Shop with sole purpose and intention to see that the supply of grains to the general public is not affected.

21. The allotment to petitioner is by order of Office of District Supply Officer dated 27.06.2005. However, on close scrutiny of the same, it is emerging that, the District Supply Officer has conveyed that said allotment to petitioner would be subject to order of Court.

22. The learned counsel for respondent No.5 has questioned the locus of petitioner to challenge the above order and reliance has been placed on above sanction. It is put-forth that respondent no.5 has succeeded in the revision before the Hon'ble Minister, who imposed fine and regularized the licence.

23. Secondly, it is submitted by learned counsel for

respondent No.5, by virtue of the order of this Court, the original status has been revived, and some of the shopkeepers, who had challenged the action of cancellation by filing writ petitions, have also succeeded in the same. That, since action of cancellation till revival, there was allotment in favour of petitioner by way of stopgap arrangement, and therefore, present petitioner was not necessary party in any of lis.

24. In support of above contentions, in the judgment of *Poonam* (supra), the Hon'ble Apex Court has held the relevant observations are as under :

“In appeal against cancellation of allotment of fair price shop by original allottee, writ petitioner’s prayer for her impleadment as necessary party in the said appeal based on fortuitous circumstance of subsequent allotment thereof in her favour in place of original allottee, cannot be allowed. Writ petitioner had no independent right in the proceedings as she had obtained allotment of shop because of vacancy which had occurred due to cancellation of allotment although her allotment was under visually impaired quota. On the other hand, original allottee was entitled to prosecute his cause of action to restore his independent legal right of allotment. Thus, subsequent allottee (writ petitioner) was neither necessary nor proper party and had no right or locus to be impleaded in the said appeal and/or challenge order passed in favour of original allottee.

49. In the instant case, shop No. 2 had become vacant. The Appellant was allotted the shop, may be in the handicapped quota but such allotment is the resultant factor of the said shop falling vacant. The original allottee, that is the Respondent, assailed his cancellation and ultimately succeeded in appeal. We are not concerned with the fact that the Appellant herein was allowed to put her stand in the appeal. She was neither a necessary nor a proper party. The appellate authority permitted her to participate but that neither changes the situation nor does it confer any legal status on her. She would have continued to hold the shop had the original allottee lost the appeal. She cannot assail the said order in a writ petition because she is not a necessary party. It is the State or its functionaries, who could have challenged the same in appeal. They have maintained sphinx like silence in that regard. Be that as it may, that would not confer any locus on the subsequent allottee to challenge the order passed in favour of the former allottee. She is a third party to the lis in this context.”

25. On court query, statement is made across the bar by learned counsel that fine imposed by the Hon’ble Minister has been paid and even a copy of the Challan, which was handed over by Government authorities is placed on record.

In the light of above discussion, when the present respondent no.5 is the original allottee, having succeeded before the Hon’ble Minister in the backdrop of orders in writ petitions, wherein

there is a challenge to the action of cancellation, coupled with the aspect of locus of the petitioner to question the action of cancellation, the writ petition being devoid of merits, deserves to be dismissed.

26. The writ petition is accordingly dismissed.

27. Rule is discharged.

(ABHAY S. WAGHWASE, J.)

28. After pronouncement of judgment, the learned counsel for the petitioner prays six weeks time for continuation of interim relief granted by order dated 27.03.2014, which has been in operation till date, to enable the petitioner to approach the Hon'ble Supreme Court.

29. Learned counsel Ms. Priyanka Mhaske i/b. Mr. S. B. Talekar for respondent no.5 objects for granting stay.

30. Considering the nature of the dispute and fact that the interim relief was in operation till today, the said interim relief to continue for a period of six (6) weeks from today.

(ABHAY S. WAGHWASE, J.)