



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 1853 of 2022

Sandip S/o Vijay Nakaskar

Versus

The State of Maharashtra, through Secretary, Food and Civil Supply,
Department, Mumbai and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri V.B.Gawali, Advocate for the petitioner.

Shri H.D.Dubey, AGP for the respondent nos. 1 to 4.

Shri S.S.Sohoni, Advocate for the respondent no.5.

CORAM : ANIL S. KILOR, J.

DATED : 31st OCTOBER, 2023.

Heard.

2. This matter pertains to the cancellation of fair price license allotted in favour of the respondent no.5.

3. From the record it is evident that on the basis of report prepared by the Tehsildar dated 22nd July, 2020, the show cause notice was issued to the respondent no.5 why his fair price license should not be cancelled.

4. The respondent no.5 in reply to the same raised various aspects in its defence.

5. The District Supply Officer, Akola cancelled the license of the respondent no.5 vide order dated 14th August, 2020 which was the subject matter of

challenge in a revision filed before the Deputy Commissioner (Supply), Amravati Division, Amravati. The said revision came to be rejected vide order dated 15th February, 2021.

6. Thereupon, the respondent no.5 filed a revision application before the Hon'ble Minister of Food and Civil Supply Department, Mumbai.

7. The Hon'ble Minister vide impugned order dated 10th February, 2022 allowed the revision and set aside the order of the Deputy Commissioner, Amravati Division, Amravati as well as District Supply Officer, Akola. Hence, this petition.

8. I have heard learned counsel for the respective parties.

9. Shri Gawali, learned counsel for the petitioner argues that without recording any reason, the Hon'ble Minister has reversed the order of the Deputy Commissioner (Supply), Amravati as well as the District Supply Officer, Akola. He, therefore, submits that the impugned order is erroneous and liable to be quashed and set aside.

10. On the other hand, Shri Sohani, learned counsel for the respondent no.5 points out that, the District Supply Officer as well as the Additional Commissioner have committed the same mistake by not

recording a single reason for cancellation of fair price license of the respondent no.5. He, therefore, submits that if this Court is of the opinion to remand the matter back to the Hon'ble Minister for not recording the reasons while passing the impugned order, the matter may be remanded back to the District Supply Officer, Akola so that he can consider the defence raised by the respondent no.5 and decide the matter afresh.

11. Shri Dubey, learned Assistant Government Pleader supports the impugned order passed by the Hon'ble Minister.

12. I have perused the record and the impugned orders.

13. To examine and test the arguments made by Shri Sohani, learned counsel for the respondent no.5, I have perused the order of the District Supply Officer, Akola and on perusal of the same it is evident that though submissions of the respondent no.5 were recorded by the District Supply Officer, Akola in his order, none of such submissions were dealt with by the District Supply Officer. Akola. Thus, without considering the case of the respondent no.5 and by relying upon the report of the Tehsildar, the license was cancelled.

14. Similar mistake was committed by the Deputy Commissioner (Supply), Amravati. Therefore, I am of the opinion that this matter needs to be remanded back to the District Supply Officer, Akola instead of Hon'ble Minister. Accordingly, I pass the following order.

- i. The writ petition is partly allowed;
- ii. The impugned order dated 10th February, 2022 passed by the Hon'ble Minister of Food and Civil Supply Department, Mumbai is hereby quashed and set aside. Similarly, the order dated 15th February, 2021 passed by the Deputy Commissioner (Supply), Amravati and the order dated 14th August, 2020 passed by the District Supply Officer, Akola are hereby quashed and set aside.
- iii. The matter is remanded back to the District Supply Officer, Akola to decide the same after taking into consideration the submissions of the respondent no.5 and the complainant.
- iv. The parties shall appear before the District Supply Officer, Akola on **7th November, 2023** at 11 p.m.
- v. The District Supply Officer, Akola shall decide the the same afresh within two months from the date of appearance of the parties.
- vi. Till then, the interim stay granted by this Court vide order dated 4th April, 2022, shall continue.

[ANIL S. KILOR, J.]