



2025:AHC:208347

RESERVED
AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 37032 of 2019

Smt. Shahin Begum and 9 others

.....Petitioner(s)

Versus

State of U.P. and 5 others

.....Respondent(s)

Counsel for Petitioner(s) : Radha Mohan Pandey, Vishal Tandon

Counsel for Respondent(s) : C.S.C., Ram Bahadur Singh, Suresh Singh

HON'BLE ARUN KUMAR, J.

1. Heard Sri Vishal Tandon, learned counsel for the petitioner, Sri Sanjeev Singh, learned Additional Advocate General, assisted by Sri Surya Bhan Singh, learned Standing Counsel for the State respondents and Sri Ram Bahadur Singh, learned counsel for the respondent no.7.

2. The present petition has been filed by the petitioner, Smt. Shahin Begum (as petition on behalf of other petitioner nos.2 to 10 has already been withdrawn), challenging the order of respondent no.6, dated 10.01.2019, cancelling the fair price shop dealership of the petitioner and the order of the respondent no.3, dated 02.09.2019, dismissing the appeal filed by her.

3. It is contended by the counsel for the petitioner that the Food Commissioner, U.P. Lucknow, issued a communication dated 21.08.2018 to the District Supply Officers of 43 districts including Ghaziabad,

annexing distribution of list of essential commodities by various fair price shop dealers, which showed that one Aadhaar Card was used for withdrawal of rations to various cardholders. On the aforesaid communication an exparte enquiry was conducted on 27.08.2018, by the Supply Inspector, and a First Information Report was lodged against the petitioner and 21 others, on 28.08.2018, in Police Station Khoda, District Ghaziabad, under Section 66 of the Information Technology Act, 2000 read with Sections 3/7 of the Essential Commodities Act, 1955, as Case Crime No.0639 of 2018. The respondent no.6 by the order dated 31.08.2018, suspended the fair price shop dealership of the petitioner on the allegation that black marketing was done by withdrawing essential commodities against 697 cardholders by using three Aadhaar Cards bearing nos. 631611332364, 337984158743 and 351348884560, and the petitioner was directed to submit her explanation.

4. The petitioner submitted her reply on 30.10.2018, denying any enquiry by the Supply Inspector on 27.08.2018. No spot inspection of shop was ever made, nor did any officer contact her on phone. The stock was never checked by the Inspector. It was further stated in her reply that, she has been regularly distributing essential commodities to the valid cardholders through E-PoS device after due Aadhaar verification. In the month of July, 2018, as some error was found in authentication of thumb impression of the cardholders in the E-PoS device by showing “Not Found”, it was sent for correction to the authorized vendor for two days, after which, necessary authentication was carried out. It was further contended that the distribution list sent by the NIC appears to be due to some technical glitch. Moreover, the fact that the alleged 697 cardholders have not received their ration was not verified by the respondent authorities, even though, the petitioner had filed affidavits of 162 cardholders stating that they had no grievance against the petitioner and that they have been regularly receiving essential commodities from her.

5. The respondent no.6, by the order dated 10.01.2019, cancelled the fair price shop dealership of the petitioner. The appeal filed by the petitioner was also dismissed by the order of the respondent no.3, dated 02.09.2019.

6. Learned counsel for the petitioner further contended that the E-PoS machine does not have any mechanism wherein a fair price shop agent can access Aadhaar database of the beneficiaries on the server of the NIC to change Aadhaar Numbers and commit any manipulation. The alleged report of the NIC was never served upon the petitioner. The E-PoS machine is so calibrated that it cannot accept multiple thumb impression. The E-PoS machine is deposited with the District Supply Officer from the 1st to 5th day of each month for checking and servicing, therefore, no manipulation is possible at the end of the fair price shop dealer.

7. The counsel for the petitioner submitted that the order of respondent no.6, is based on presumption that, as on one Aadhaar number, ration has been withdrawn for multiple cardholders, therefore, the petitioner has committed black marketing. The petitioner has been held guilty because an FIR under Section 3/7 of Essential Commodities Act, 1955 was registered against her. In respect of his contention, he has relied upon a Full Bench judgment of this Court in the case of Bajrangi Tiwari vs. The Commissioner Devi Patan Mandal Gonda, 2025 (7) ADJ 585 (LB), wherein in it has been observed as under in paragraph 9:-

“9. In the case of Smt. Raj Kumari Singh (supra) the Court had held as follows:

"mere filing of a F.I.R. cannot result in holding a fair price shop owner guilty of the offences charged. If there be a conviction, then it is possible to proceed, based on the conviction and not otherwise. In case if the F.I.R. is lodged, it is still open to the respondents to proceed by leading independent evidence and statements of the persons recorded."”

8. Learned counsel for the petitioner has further relied upon two judgments of Coordinate Benches of this Court in the case of Amit Kumar vs. State of U.P. and others, Writ-C No.2029 of 2022, decided on

11.09.2024 and M/s Sajid vs. State of U.P. and others, Writ-C No.38609 of 2019, decided on 10.06.2025, which have been upheld by the Hon'ble Supreme Court, dismissing Special Leave Petition filed by subsequent allottees. In the aforesaid judgments of this Court the order of cancellation of fair price shop dealership has been set aside on the ground that no preliminary enquiry has been conducted by the authorities before suspension/cancellation of fair price shop as contemplated under the Government Order dated 05.08.2019 and that merely on registration of criminal case, fair price shop dealership cannot be cancelled as held by the Full Bench in the judgment of Bajrangi Tiwari (supra).

9. The counsel for the petitioner has further relied upon judgment of this Court passed by Coordinate Bench in the case of M/s Sanjay Kumar vs. State of U.P. and others, Writ-C no.34215 of 2019, decided on 11.12.2024, in which this Court has allowed the writ petition setting aside the order of cancellation of fair price shop dealership, holding that in the absence of a technical analysis report it cannot be held that the petitioner therein was involved in manipulation of the E-PoS machine. Relevant extracts from the aforesaid judgment are as follows:-

“7. On a pointed query being made to learned Standing Counsel that what was the material before the cancellation authority or the appellate authority which would indicate that there was any tampering in the server or the E.P.Os machine. Although, the E.P.Os machine was in the possession of the petitioner however, it has not been shown by learned Standing Counsel that the aforesaid E.P.Os machine was in any manner tampered, learned Standing Counsel could not dispute the fact that before the cancellation authority or the appellate authority there was no material to indicate that the petitioner was in any manner involved in the change of data in the server of the State Government.

8. In the present case, it is to be seen that the allegation against the petitioner for cancellation of the fair price shop licence is based on the fact that 281 card holders were given essential commodities on one Aadhar card. The E.P.Os machine which is used for distribution of the essential commodities is linked with the Aadhar card and it is a biometric system. Such a biometric system cannot be used to supply essential commodities to 281 card holders on one Aadhar card unless the original data has been changed. Learned Standing Counsel has not shown any technical report or any other material that the data or E.P.Os machine in any manner was intermeddle by the petitioner. It

was imperative on the part of the respondent-authorities to have seized the E.P.Os machine and should have send the same for the technical analysis and after receiving the report, the matter should have been proceeded with. The matter has been proceeded with by the respondents on a presumption that since the petitioner was in possession of the E.P.Os machine, he would be the person who has intermeddle the data. Although, the data was saved in the server of the State Government has been accepted by the learned Standing Counsel.

9. The technical analysis report was the only source which could have pointed out as to the person who was involved in the alleged misdeed. The aforesaid fact is further fortified that the petitioner had claimed that the Inspector concerned had given a supply certificate of essential commodities to the card holders at the relevant point of time, in respect of which, no finding has been recorded by the appellate authority.

10. Such being the position, there being no material against the petitioner to indicate that the petitioner is the person who is involved in such a misdeed. Only on the basis of presumption, the petitioner's licence cannot be cancelled unless the foundation is shown by the State Government. The State Government has not been able to discharge its burden.

11. Accordingly, the order dated 15.1.2019 passed by respondent no.3 and the appellate order dated 11.9.2019 passed by respondent no.2 are hereby set aside. The writ petition is allowed and the fair price shop licence of the petitioner is hereby restored.”

10. Learned Additional Advocate General, on the other hand, has defended the order of respondent no.6 and 3, dated 10.01.2019 and 02.09.2019, respectively, stating that under the U.P. Essential Commodities (Regulation of Sale and Distribution Control) Order, 2016, which governs the subject matter of dispute, an agreement signed between the parties i.e. licensee and the State Government, partakes the nature of statutory contract, where the licensee conduct activity on behalf of the State distributing foodgrains and in return is entitled to commission and it is clearly a contract of agency as known in law. He further argues that the enquiry as required to be held against the licensee for suspension or cancellation is akin to a disciplinary enquiry which is against a government servant. In support of his contention, he has relied upon a Division Bench judgment of this Court in the case of Shankar Prasad vs. State of U.P. and others being Misc. Single No.32679 of 2019,

decided on 08.12.2021. In the aforesaid judgment a question was referred to the Larger Bench, as to, what are the parameters of principles of natural justice to be followed in enquiries conducted by licencing authority on complaints of irregularity in distribution of essential commodities. The said question was answered by the Division Bench of this Court as under:-

“It is held that the parameters for an enquiry to be conducted against the licensee for the irregularities committed by the licensee in terms of the Distribution of Essential Commodities is on broad principles of natural justice where the competent authority shall provide a show cause notice to the licensee indicating the violations and irregularities committed by the licensee with sufficient particularity to enable him to respond to the same and after affording an opportunity of hearing, the decision can be taken by the competent authority by a reasoned and a speaking order. The enquiry envisaged is summary in nature and does not entail a detailed hearing, akin to a departmental enquiry.”

11. It has been further argued that, non-adherence of the provisions of preliminary enquiry envisaged in the Govt. Order dated 05.08.2019, cannot vitiate the order under challenge, as the said Govt. order is prospective to the cancellation of fair price shop dealership of the petitioner, by the order dated 10.01.2019. On this argument, learned Additional Advocate General tried to persuade the Court that the judgment of the Coordinate Benches in the cases of Amit Kumar (supra) and M/s Sajid (supra), did not support the claim of the petitioner. It was contended that the judgment in the case of M/s Sajid (supra) decided a bunch of writ petition by the order dated 10.06.2025, including Writ-C No.5595 of 2020, which was challenged by one Mohd. Rizwan Ali, a subsequent allottee, before Hon'ble Supreme Court, in Special Leave Petition (Civil) Diary No.50142 of 2025, in which operation of the impugned order has been stayed, therefore, the judgment of Coordinate Bench in the aforesaid case has no binding precedent.

12. Learned Additional Advocate General further drew attention of the Court to the reply submitted by the petitioner to the show cause notice where she has claimed that her E-PoS machine was sent for correction for two days to a vendor. However, in the appeal filed by her before

respondent no.3, she has made a categorical statement that her E-PoS machine was never given to anyone, nor was it tampered, as such, all allegations are incorrect. The aforesaid discrepancy also shows that the conduct of the petitioner in distribution of the essential commodities was not fair.

13. Learned Additional Advocate General has repelled the contention of the petitioner that her fair price shop agreement has been cancelled due to registration of a criminal case against her. He contended that, the criminal prosecution of the petitioner had been initiated under Section 66 of the Information Technology Act, 2000 and Sections 3/7 of the Essential Commodities Act, 1955. Whereas, the cancellation of fair price shop dealership has been undertaken under the Control Order, 2016. The learned Additional Advocate General drew attention of the Court towards the averments in the explanation of the petitioner dated 30.10.2018, where it has been admitted that, the E-PoS machine was given to a recognized vendor for two days for repair. However, there is nothing on record to show that who was the vendor who repaired the E-PoS device and when this repair work was carried out.

14. Answering to the argument of the petitioner's counsel that in the absence of any technical analysis report, the implication of the petitioner for manipulation in the E-PoS machine is not justified, the learned Additional Advocate General has placed before the Court a judgment of a Coordinate Bench of this Court in the case of Awadhesh Kumar vs. State of U.P. and others, 2022 (3) ADJ 53, in which this Court after conducting a detailed enquiry and witnessing the Power Point Presentation before the Court, has recorded that the dealer of fair price shop had access to modify/alter the Aadhaar number during the entire day time when E-PoS machine was in a dynamic mode. However, it became irreversible and could not be changed after the final authentication was done in the evening. The observations of the Court in the aforesaid judgment are extracted below:-

“65. This is a case affecting 43 districts of the State in which, in the month of July, 2018, by the use of E-PoS Machine, ration meant for poor and eligible cardholders to be distributed from the Central Pool by the State Agencies have been syphoned off. With the advancement of technology and more and more use in daily life, the effort is for upliftment of life of an individual both by the State and through individual effort.

66. Here is a case where the Government made effort to stop pilferage in the public distribution system, for the first time by enacting Act of 2013, thereafter framing Rules of 2015, mandating and bringing in the use of technology through E-PoS Machine, wherein the data of a cardholder was to be feeded and by use of his biometric authentication, ration was to be distributed. The sole aim and purpose was to eliminate in the Public Distribution System, the pilferage of goods by the dealers by not providing the benefit which was extended by the Government through various beneficial schemes meant for poor and downtrodden who are forced to live life of poverty and hunger. The basic object was to eliminate hunger and to fulfil the goal enshrined in our Constitution that an individual lives a life of dignity.

67. The Aadhaar Act of 2016 gave a boost to the objective of Act of 2013, and after implementation and its validity being upheld by the Apex Court in K.S. Puttaswamy's case (supra), it became easy for the Government in fulfilling its object by entering the details of an individual cardholder in E-PoS Machine and only on the verification of biometric, which was done by the Authority known as UIDAI through server of NIC that ration can be distributed.

68. This system was introduced so as to break corrupt nexus between the dealers and the officials of the Food and Civil Supply Department. Without the authentication of biometric of a cardholder, ration could not be distributed. Once, the biometric was used for current cycle, it gets locked and second transaction was not possible. The Government could now keep an eye and have the exact figure of the ration/essential commodities sent by it from the Central Pool to the State Agencies for distribution and the amount of foodgrains distributed to the cardholders.

69. But, this transition from the manual process of distribution of goods to use of E-PoS Machine was not smooth and had certain hurdles. Earlier, in the year 2014-15, an assessment of State Government regarding urban and rural eligible cardholders was around 15 crores but, feeding failed and therefore, fresh exercise was undertaken pursuant to the enforcement of Control Order of 2016 by the State in the year 2017.

70. The State chose four System Integrator who were required to provide E-PoS Machine to the dealers and a contract was entered with the System Operator for feeding of Aadhaar details in E-PoS Machine. State had required the process to be completed within three months. But, as there was some problems, time was extended.

71. It was during the process of feeding which started throughout the State that large scale syphoning off foodgrain meant for the cardholders happened.

72. As pointed out in Power Point Presentation of feeding and seeding by both the sides, it is clear that the first step is of entering the details of Aadhaar of a beneficiary into the E-PoS Machine, where neither authentication is done nor any OTP is generated and this is called 'feeding'. According to the State, this was dynamic mode, wherein system operator could enter the detail and edit the same number of times till it was finally locked during the evening hours.

73. It is admitted to both the parties that only once in the evening the data, which was feeded during the day time, was locked and then it became irreversible and could not be changed because of its authentication by the Competent Authority i.e. UIDAI. This process is seeding of the Aadhaar details.

74. E-PoS Machine is undoubtedly with the custody of the dealer and it was during the day time that the feeding was done in the E-PoS Machine, as it was in dynamic mode. During the feeding process, the data could be changed/alterd number of times till it was finally locked after verification.

75. The catch lies here. Taking advantage of the fact that entire Aadhaar details of all the ration cardholders attached to a particular dealer/shop was not feeded and seeded and the process was continuing, while the distribution of essential commodities continued, interpolation was made by the dealer in the details and using one or two Aadhaar numbers, ration from dormant cardholders was withdrawn.

76. The most interesting part is that this exercise was done only in the month of July, 2018 in most part of the State. The argument made at the behest of petitioner's counsel that it was not possible without connivance of District Supply Officer and official of NIC does not impress the Court as the E-PoS Machine was in the custody of dealer and during day time, the data can be feeded and edited number of times till it was finally locked in the evening.

77. From perusal of transactions sheet brought on record by the State through personal affidavit of Principal Secretary, it reflects that most of the transactions had taken place between an interval of 2-3 minutes. Looking from the practical aspect, it is not possible for any dealer to carry out the transaction and deliver the goods after completing the formality within two minutes.

78. The argument regarding role of officials of Supply Office and NIC cannot be considered on two counts, firstly, neither any specific allegation has been made in the writ petition against any of such officials nor they have been impleaded as a party. Moreover, in the representation of petitioner as well as during oral arguments, such allegations have been made. Secondly, the Court finds that there was no requirement of use of login ID or password as the Machine was

open for feeding during the day-time and the dealer, with the help of unknown operator, as alleged in the show cause notice, had performed number of transactions as the details was finally locked in the evening. All the transactions in the leading case is of the day time.

79. Reliance placed upon decision in case of Ravi Yashwant Bhoir (supra) is not applicable as petitioners have failed to make out any case of mala fides either in the writ petition or through argument. The Apex Court in Ratnagiri Gas and Power Private Limited (supra) while distinguishing between malice in fact and malice in law had taken note of the said judgment.

80. Coming to the argument advanced by Sri Trivedi that the concept of feeding and seeding required authentication from the Competent Authority, thus, the dealer was incapacitated to perform any such act and make any interpolation at its end was not possible, cannot be accepted due to the fact that feeding of Aadhaar data was being carried out for the first time in the E-PoS Machine and it was in a transition phase.

81. The feeding part became irreversible only after the authentication by the Competent Authority, which was done only once during the day and that too the evening, leaving it open during the day time for altering and editing data number of times. Thus, the concept of seeding has two facets, one when the Machine is on dynamic mode wherein feeding is done and data can be altered number of times till it is finally locked and becomes irreversible. Secondly, when the data fed is authenticated by Competent Authority and becomes irreversible, which is called static mode.

82. In K.S. Puttaswamy (supra), Power Point Presentation was given in Supreme Court in regard to process of feeding and seeding of Aadhaar details and authentication by the Competent Authority. The Apex Court had found that the system was foolproof and once authentication was done by the Competent Authority, no change can be made in the details fed in the Machine.

83. Similarly, while the details of Aadhaar was being fed in the E-PoS Machine, during feeding, the details could be changed subject to verification and authentication by the Authority. Once, it was done, the change became irreversible.

84. The dealers, taking advantage of this hybrid mode, had resorted to such illegal activities and syphoned off ration of dormant cardholders. They were aware that no enquiry would be conducted as the cards were dormant and no one would come up to make any complaint. But, on verification of transactions it was found that using details of few Aadhaar numbers, ration of thousands of cardholders was withdrawn throughout the State of U.P.

85. Argument, that information given by District Supply Officer clearly demonstrate that dealer can neither change the software in E-PoS Machine, nor prepares the Password/login ID nor he can feed the

Aadhaar details, is of no help to the petitioners, as it was a general information which was sought in the year 2019 after the entire work of feeding and seeding was over.

86. No information was sought in regard to the fact that, at the first instance, when feeding began, whether without data being authenticated, the same can be changed or altered? It is an accepted fact that once the process of seeding is over, no one can change the same and transaction will be completed only after authentication of biometrics of a beneficiary.

87. An argument has been raised on behalf of the petitioner that it was not possible for dealers situated in 43 districts of State to come up with one idea and performs such illegal transaction in one month. This Court finds that as the entire feeding and seeding process was not completed and was in a transition mode, the dealers had an opportunity before the data was locked permanently and was in a dynamic mode, they withdrew rations of the dormant cardholders.

88. "Process of Seeding" includes both feeding and seeding of Aadhaar details of a beneficiary in E-PoS Machine. As discussed earlier, the process is divided into two parts, firstly, by entering the data where it is in dynamic mode and, secondly, upon its verification, it gets locked and is in static mode. Petitioner's argument is only to the extent of static mode where the data become irreversible and gets locked, and there is no role of the dealer therein to get it altered or changed.

89. This fact is accepted to the State that once feeding is over and the data gets locked, it becomes irreversible and beyond the approach of the dealer to alter it. But in the case in hand, the transaction took place while the process was in dynamic mode and not in static mode. The word "Process of Seeding" encapsulates both feeding and seeding and it cannot be read in isolation.

90. Thus, during the transition period, first, the data was seeded and after authentication, it was seeded and then only became irreversible.

91. Alternate argument raised in regard to technical glitch or malfunctioning of software in the month of July, 2018 has no legs to stand, as petitioners have tried to raise contradictory plea and argument. When the petitioners failed to nail the officials of the department, an attempt has been made to portray that technical glitch occurred in the working of software. This Court finds that most of the transactions were carried out by the dealers of dormant cardholders. Moreover, the Card ID are different but only few of the Aadhaar numbers have been given for all the Card IDs, this cannot be a technical glitch but a deliberate attempt.

92. Further, the transaction sheet, reveals that in the 4th Column, Ration Card ID of all the 311 cardholders are different but 6th Column mentions only 2 Aadhaar numbers. This cannot be a technical glitch, and the State has come out with a case that out of 311 Cardholders, 236 Cards are dormant and rest of the cardholders are not identifiable.

93. In fact, through Section 12 of Act of 2013, the Government had mandated for use of technology through computerization and leveraging Aadhaar so that actual beneficiary may receive foodgrains and to eliminate all those cardholders from the system, who were not entitled under the Act to get the foodgrains.

94. Dealers are well aware that once the entire data of ration cardholders are fed in E-PoS Machine and distribution takes place through use of biometric by authentication, pilferage in the system would be reduced to negligible. This was a last ditch attempt to squeeze out the maximum from the kitty of the State misusing the technology.

95. As discussed earlier, technology advancement is beneficial to the mankind, but its misuse can be detrimental to the society at large when used with wrong intention.

96. As it is clear that on 17.10.2017, the State Government had apprised the Commissioner, Food and Civil Supplies, U.P. that the work of Aadhaar seeding was to be carried out in the entire State, for which E-tendering was required, pursuant to which the Commissioner, Food and Civil Supplies on 18.10.2017 required all the District Magistrates of the State for seeding of Aadhaar Card in the E-PoS Machine.

97. In the letter addressed to the Collectors, it was made clear that the feeding work was to be completed within three months. Thus, it can be safely said that the State as well as the different authorities had been using the word seeding of Aadhaar Card in the E-PoS Machine, though the process of seeding is bifurcated into two parts, namely, 'feeding' and 'seeding'.

98. In the present case, on 10.01.2018, the District Supply Officer, Meerut had issued a letter to M/s Rising Star IT Solution, the System Integrator, requiring him to complete the work of feeding within three months. Thus, the argument that the order of Collector as well as process initiated by State Government in 2017 using the terminology 'seeding' was a process irreversible, is a fallacy.

99. Seeding is the final and ultimate part of the process wherein Aadhaar data is entered in the E-PoS Machine and after verification from the Competent Authority, the data gets finally locked and is thus called 'seeded'.

100. It appears that the petitioners have fallen in trap of the word 'seeded' and its use at different places has led them to believe that the process initiated by the Government became irreversible on mere feeding of data. In fact, the details of Aadhaar feeded during the day time could be easily changed and altered number of times unless and until it was authenticated by the Competent Authority wherein the process became irreversible and the data stood seeded.

101. The argument raised by learned Additional Advocate General as to the basic order having not been challenged by the petitioner, this Court finds that though there is a lacuna that only the consequential order has been challenged by the petitioner but the Court, at this stage, declines to accept this plea as the matter is being heard and decided after exchange of pleadings by both the sides.

102. The entire controversy in all the connected bunch matters raises similar question that it was not in the domain of dealers, nor they could edit or change the data which had seeded by the department. The entire narration on their behest was to the extent, including information received under Right to Information Act that dealer cannot make any change in the seeded data and the LoginID/Password was not in their custody.

103. After analysis, the Court finds that entire controversy is being dragged on in the garb of the word 'seeded'. The terminology is vast and includes both 'feeding' and 'seeding'. One should be remindful of the fact that prior to the use of E-PoS Machine, an exercise being undertaken by the State Authorities for seeding of the Aadhaar details of a beneficiary, the PDS System was working manually.

104. The entire effort of both Central and State Governments was to reduce pilferage of essential commodities meant for eligible cardholders by the use of electronic device with biometric authentication of beneficiary.

105. Petitioners have not denied the ration being given to the dormant cardholders in their reply nor in the writ petition. Their entire effort rest on the fact that no official of the department had been made liable and further no inquiry has been conducted, nor any complainant has come forward and made complaint before the State is of no consequence as neither any official of the department has been made party in the writ petition nor any allegation has been made against them. Moreover, the case of the State is specific to the effect that ration was withdrawn of the dormant cardholders. Thus, no question arises for anyone coming forward and making complaint.

106. In *Ekta Shakti Foundation (supra)*, Apex Court had clearly laid down the concept of equality, as envisaged under Article 14 of the Constitution, which is a positive concept and cannot be enforced in a negative manner. The petitioners were under the obligation to prove their case, rather shifting the burden and blame upon the State.

107. Considering the facts and circumstances of the case, this Court finds that no interference is required in the order dated 25.11.2019 passed by District Magistrate.

108. In the result, the writ petition fails and is hereby dismissed.

109. Similarly, in all the other connected matters, this Court declines to interfere in the order of cancellation passed by District Supply Officer and the same having been affirmed by the District Magistrate, cancelling the licence of the fair price shops in question.

110. All the writ petitions are hereby dismissed.”

15. I have heard learned counsel for the parties and perused the record and judgments cited by the parties.

16. The impugned order of the respondent no.6 dated 10.01.2019 shows that petitioner's fair price shop dealership was suspended for black marketing by resorting to manipulation in the E-PoS device through which three Aadhaar card numbers were used to withdraw essential commodities in respect of 697 registered cardholders. On discovery of the said fact by the NIC in 43 districts an enquiry was conducted and First Information Reports were registered against the fair price shop dealers and other government officials involved in the aforesaid scam. Pursuant to the show cause notice issued to the petitioner no valid explanation could be submitted by her as to how only three Aadhaar numbers were registered for withdrawal of ration to 697 cardholders. The allegation of technical glitch in the server of the NIC has not been satisfactorily explained. In the enquiry conducted by the Coordinate Bench of this Court on the same issue relating to a different district for the same period i.e. July, 2018, it was discovered that the feeding in the E-PoS machine could be done throughout the day when machine was in the dynamic mode wherein system operator could enter details and edit the same, number of times till it was finally locked during the evening hours. The learned Single Judge has found that when this scam was unearthed it was a period when the manual process of distribution of essential commodities was in transition phase for the use of E-PoS machine. Taking advantage of the fact that all the ration cardholders attached to a particular dealer/shop was not feeded and seeded and the process was underway, while the distribution of essential commodities continued, interpolation was made by the dealer in the details by using one or two Aadhaar numbers, and ration for multiple cardholders were withdrawn.

17. Relying upon the judgments in the cases of Amit Kumar (supra) and M/s Sajid (supra), learned counsel for the petitioner has stated that,

the said cases also related for the same period and in the aforesaid cases also, cancellation of dealership was on the basis of NIC report, therefore, the benefit granted by this Court, should be extended to the petitioner. The perusal of aforesaid judgments shows that the writ petitions were allowed on two counts, firstly, that the preliminary enquiry had to be conducted as contemplated in the Government Order dated 05.08.2019, before taking any action for cancellation of the fair price shop dealership of the petitioner and registration of First Information Report against the petitioner could not form the basis for cancellation of a fair price shop dealership.

18. The Learned Single Judge while allowing the aforesaid writ petitions, namely, Amit Kumar (supra) and M/s Sajid (supra), did not consider the fact that the Government Order dated 05.08.2019, came subsequent to the cancellation of fair price shop dealership of the petitioner, and in the case in hand registering of a criminal case is not the ground for cancellation of fair price shop dealership, therefore the ratio of the Full Bench judgment of Bajrangi Tiwari (supra), has no application. In view of the aforesaid distinction, the petitioner is not entitled for the benefit of the aforesaid judgments. It has been held by the Hon'ble Supreme Court in the case of Bhavnagar University vs. Paltina Sugar Mill (P) Ltd. (2003) 2 SCC 111 that a little difference in facts or even one additional fact may make a lot of difference in the precedential value of a decision.

19. Leaned counsel for the petitioner, relying upon the judgment in the case of M/s Sanjay Kumar (supra), argued that, in the case of the petitioner also no technical analysis report was called for and, therefore, it cannot be presumed that she was involved in the manipulation of E-PoS machine. The perusal of aforesaid judgment shows that it was delivered on 11.12.2024, however, the findings of the earlier judgment of the Coordinate Bench of this Court, in the case of Awadhesh Kumar (supra), recording the advantage available to the fair price shop dealer to manipulate in the E-PoS machine was not considered. The findings of

this Court in the case of Awadhesh Kumar (supra) have not been disputed by the counsel for the petitioner. The observations recorded by the High Court which are records of court are correct and cannot be contradicted. The principle is well settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence, as held by the Hon'ble Supreme Court in the case of State of Maharashtra vs. Ramdas Shrinivas Nayak, (1982) 2 SCC 463. The said ratio has been recently reiterated by the Hon'ble Supreme Court in the case of Savita vs. Satyabhan Dixit, Special Leave to Appeal (C) No.31322 of 2025, decided on 07.11.2025.

20. In view of the aforesaid discussion, it is evident that use of three Aadhaar cards to withdraw ration of 697 cardholders has not been reasonably explained by the petitioner. There is nothing on record to show that 162 affidavits filed by the petitioner, accepting receipt of essential commodities from her, are from 697 cardholders, whose ration has been withdrawn by resorting to interpolation. Even though, 162 cardholders accept receipt of ration regularly, petitioner cannot be obliterated from showing that, the use of three Aadhaar Card numbers for 697 cardholders was not her own volition. In absence of any specific pleadings alleging *mala fides* against the Officers of the State Government, by name, the argument of the learned counsel for the Petitioner that, Official of the department have committed gross irregularities and in order to save their skin, they are placing burden upon the petitioner by lodging false FIR and resorting to cancellation of licence, falls flat.

21. The writ petition being devoid of merit is, accordingly, dismissed.

(Arun Kumar,J.)

November 21, 2025

Ashok Kr.