



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 8TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT APPEAL NO.100752 OF 2025 (APMC)

BETWEEN:

JAI KISAN WHOLESALE VEGETABLE MERCHANTS'
ASSOCIATION,
OLD P.B. ROAD, GANDHINAGAR, BELAGAVI.
REP. BY ITS SECRETARY,
SRI. KARIMSAB K. BAGWAN,
AGE. 69 YEARS, OCC. BUSINESS,
R/O. MAHANTESH NAGAR,
BELAGAVI, DIST. BELAGAVI-590001.

...APPELLANT

(BY SRI. PRAMOD KATAVI, SENIOR COUNSEL FOR
SRI. RAMACHANDRA A. MALI, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REP. BY ITS SECRETARY,
DEPT. OF AGRICULTURE MARKETING,
M.S. BUILDING, BENGALURU-01.
2. THE DIRECTOR OF AGRICULTURE MARKETING,
NO.16, 2ND RAJBHAVAN ROAD,
P.B. NO.5309, BANGALORE-01.
3. THE DY. DIRECTOR,
DEPARTMENT OF AGRICULTURE MARKETING,
BELAGAVI DISTRICT, NEAR POLICE HEADQUARTERS,
SHIVAJI NAGAR, BELAGAVI-590001.
4. THE DY. COMMISSIONER,
BELAGAVI DISTRICT,
BELAGAVI-590001.

RAKESH
S
HARIHAR

Digitally signed by
RAKESH S. HARIHAR
Location: HIGH
COURT OF
KARNATAKA
DHARWAD BENCH



5. THE SECRETARY,
AGRICULTURAL PRODUCE MARKETING
COMMITTEE, KANGRALI KH ROAD,
BELAGAVI, DIST. BELAGAVI-590001.
6. SRI. SIDAGOUDA MODAGI
AGE. MAJOR, OCC. BUSINESS,
STATE PRESIDENT,
BHARATIYA KRISHI SAMJA,
NO.1B, 4059/4D, 2ND FLOOR,
PATIL BUILDING,
OPP. SARDARS HIGH SCHOOL,
BELAGAVI-590001.
7. BELAGAVI DISTRICT WHOLESALE VEGETABLE
MERCHANTS WELFARE SANGHA,
APMC MARKET YARD, BELAGAVI-590001.
8. SRI. CHUNAPPA PUJERI
AGE. MAJOR, OCC. NIL,
PRESIDENT,
KARNATAKA STATE RAYOT SANGH HASIRU SENE,
BEHIND S.C. MOTORS,
AIRPORT ROAD, BELAGAVI-590001.

...RESPONDENTS

(BY SRI. GANGADHAR J.M, AAG FOR SRI. SHARAD V. MAGADUM, AGA
FOR R1 TO R4;
SRI. P.N. HATTI, ADVOCATE FOR R5;
SRI. NITIN BOLBANDI, ADVOCATE FOR R6;
SMT. SHOBHA H., ADVOCATE FOR R8)

THIS WRIT APPEAL IS FILED UNDER SEC.4 OF KARNATAKA
HIGH COURT ACT, 1961, PRAYING TO CALL FOR THE RECORDS IN
W.P.NO.107119/2025(APMC) ON THE FILE OF LEARNED SINGLE
JUDGE OF THIS HON'BLE COURT AND SET ASIDE THE ORDER DATED
27-10-2025 MADE IN THE ABOVE WRIT PETITION PASSED BY
LEARNED SINGLE JUDGE AS THE SAME BEING ERRONEOUS AND NOT
SUSTAINABLE IN LAW AND CONSEQUENTLY ALLOW THE
W.P.NO.107119/2025 (APMC) AS PRAYED FOR THEREIN IN THE
INTEREST OF THE JUSTICE AND EQUITY & ETC.

THIS WRIT APPEAL COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

Sri. Gangadhar J.M., learned Additional Advocate General accepts notice for respondents No.1 to 4. Sri. P.N.Hatti, learned counsel accepts notice for respondent No.5.

2. Heard Sri. Pramod N.Kathavi, learned Senior Counsel for Sri. Ramachandra A.Mali, learned counsel for the appellant, Sri. Gangadhar J.M., learned Additional Advocate General for Sri. Sharad V.Magadum, learned Additional Government Advocate for respondents No.1 to 4, Sri. P.N.Hatti, learned counsel for respondent No.5, Sri. Nitin Bolbandi, learned counsel for respondent No.6, and Smt. Shobha H., learned counsel for respondent No.8.

3. No notice is ordered to respondent No.7 having regard to the nature of disposal.

4. Learned Senior Counsel, Sri. Pramod N.Kathavi, at the outset, would submit that this appeal is limited to the



observations made in paragraph 12.11 of the impugned order dated 27.10.2025 passed by the learned Single Judge in W.P. No.107119/2025. The learned Senior Counsel would submit that the learned Single Judge has relegated the petitioner to avail the alternative remedy of appeal provided under Section 72E of the Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966 (for short, 'the 1966 Act'). Learned Senior Counsel would, however, submit that, while relegating the appellant to avail alternative remedy, the learned Single Judge could not have made observations which are adverse to the interest of the appellant. He would further submit that, with the observations made by the learned Single Judge in paragraph 12.11 of the impugned order, if the appellant approaches the appellate authority, nothing would survive for consideration in the appeal. In that circumstance, learned Senior Counsel would pray for expunging the said observation so that it makes the appeal (under Section 72E of the 1966 Act) worth consideration. Thus, he would pray for expunging the observation made at paragraph 12.11 of the impugned order. It is submitted that the learned Single Judge has given a categorical finding that there is consistent default



on the part of the appellant/petitioner and, if that is so, approaching the appellate authority would be of no use. Thus, he would pray for expunging the above observation/paragraph from the impugned order.

5. However, learned Additional Advocate General would submit that such observation would not come in the way of the appellate authority while considering the appeal, and he fairly submits that an observation could be made that, while considering the appeal, the appellate authority shall not look into the said observation and could decide the appeal independently.

6. The learned counsels for the other respondents would adopt the submission made by the learned Additional Advocate General.

7. Having heard the learned counsels for the parties and on perusal of the entire writ appeal papers, we do not find any error in the direction issued by the learned Single Judge relegating the appellant to avail the remedy of appeal provided under Section 72E of the 1966 Act. However, while relegating



the appellant to avail alternate remedy of appeal, the learned Single Judge ought not to have made observation at paragraph 12.11 of the impugned order which reads as follows:

"12.11. In furtherance of the complaints which have been received, inspections have been carried out on various dates as indicated supra, more so in March, April, May, June, 2025. It is not a stray inspection on part of the official respondents but the facts and documents on record establish a consistent default on part of Jai Kisan. When such defaults are committed, the same would come both under Clause (b) and Clause (c) of Subsection (1) of Section 72D inasmuch as firstly there is a breach, secondly on account of the actions on part of Jai Kisan, the operation of the private market yard has been obstructed."

The above observation may influence the appellate authority while considering the appeal independently. While relegating a party to avail alternative remedy of appeal, an observation, which would adversely affect such person, normally, could not be made by the Courts. While remanding the matter, it would be open for the higher Courts to make observation/s depending on the nature of remand. While relegating the party to avail the



alternative remedy before the appellate authority, the appellate authority shall be given a free hand to examine the appeal on merits and any adverse observation while relegation would prejudice the case of such person.

8. The learned Senior Counsel for the appellant would submit that the appellant would file an appeal within ten days.

9. In the above circumstances, we pass the following:

ORDER

- (i) The appellant shall avail the alternative remedy of appeal provided under Section 72E of the 1966 Act, as observed by the learned Single Judge.
- (ii) The appellate authority, while considering the appeal, shall not look into the observations made at paragraph 12.11 of the impugned order or any other observation which would have an adverse impact on the appellant, and the appeal shall be considered independently on its own merit.



(iii) If an appeal is filed within ten days, from the date of uploading of this order, before the Karnataka Appellate Tribunal, the appellate Authority as far as possible consider the same expeditiously and pass an order within six months from the date of filing the appeal.

Pending interlocutory applications, if any, stand disposed of as not surviving for consideration.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

KMS, CT:VP
LIST NO.: 1 SL NO.: 40