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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7060 OF 2022

Agricultural Produce Market Committee, Akkalkot
A 'local authority' established under the provisions
of MAPMC, Act

Having its Registered address at :

Market Yard, Akkalkot

Duly represented by its authorised representative

Mr Sanjiv Sidramappa Patil

Age: Adult, Occupation: Agriculturist,

Having address at:

Market Yard, Akkalkot

... Petitioner

Versus

1. Madivalppa Gunigappa Badole

Age: 48 yrs, Occupation : Service

Residing at :

Ratnadip Niwas, Jangi Plot No 55, By-pass Road,
Akkalkote, Solapur

2. Director of Marketing, Pune

Central Building, Pune

... Respondents

Mr. Abhijit Dilip Kulkarni (Through V.C.) a/w. Balkrishna Patil for the
Petitioner.

Mr. Sachin Hande (Through V.C.) for Respondent No.1.

Mr. Sanjay D. Rayarikar AGP for the State.

CORAM : M.M. SATHAYE, J.

RESERVED ON : 10th APRIL, 2026

PRONOUNCED ON : 31st AUGUST, 2026

(THROUGH VIDEO CONFERENCING)

JUDGMENT :

1. Invoking Articles 226 and 227 of the Constitution of India, the Petitioner-Agricultural Produce Market Committee ('APMC' for short) is challenging Order dated 14.01.2022 passed by Respondent No. 2 (Director of Marketing, Pune) in Appeal No. 73 of 2021, allowing the appeal of its secretary Respondent No. 1, thereby setting aside the Order dated 18.09.2021 passed by the Petitioner and also canceling/setting aside the resolutions dated 06.09.2021 and 18.09.2021 passed by the Petitioner.

BACKGROUND

2. The case of the Petitioner, in short, is as follows.

The Petitioner-APMC is a local authority established under provisions of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act of 1963 ('the said Act', for short). Respondent No.1 was appointed as 'Secretary' of the Petitioner-APMC on 17.03.1997. On 06.09.2021, a meeting of Petitioner's Managing Committee was held where issues pertaining to malpractices and mal-administration of Respondent No. 1 were raised and it was decided to discuss the same at length in the next meeting. On 18.09.2021, Managing Committee meeting took place and it was decided to formulate 3 member inquiry committee of independent persons who are expert in the field of law as well as administration of APMC. In order to keep Respondent No. 1 away from records of APMC and from junior officers who may be witnesses, Respondent No. 1 was suspended with immediate effect by a letter dated

18.09.2021, which is received and acknowledged by Respondent No. 1 without any protest. On 04.10.2021, the inquiry committee issued show cause notice to Respondent No. 1 and on 13.10.2021 the period of suspension was extended, which is not challenged by Respondent No. 1.

3. Respondent No. 1 filed appeal before Respondent No. 2 under Section 52B of the the said Act, challenging the alleged decision to conduct inquiry and his suspension order. The Petitioner-APMC filed its say to the appeal. Respondent No.2 granted interim stay in favour of Respondent No. 1 by order dated 28.10.2021 thereby temporarily staying order dated 18.09.2021, but directing that inquiry be conducted by the Assistant Registrar, Co-operative Societies, Akkalkot, instead of three member committee.

4. The Petitioner-APMC challenged the said interim order by filing appeal before the Minister of State for Marketing, who, by order dated 15.12.2021 set aside the above interim order.

5. The Respondent No. 1 challenged the said order of Minister by filing Writ Petition No. 9427 of 2021 making grievance that no opportunity of hearing was given.

6. This Court by an order 22.12.2021 disposed of the writ petition by setting aside order of Minister and by directing Respondent No. 2 to decide the pending appeal on merits in a time-bound manner. This Court continued the interim order dated 28.10.2021 passed by Respondent No.2.

7. That Respondent No. 2 after considering the material on record, has passed impugned order dated 14.01.2022. The Petitioner again suspended Respondent No.1 by order dated 18.01.2022.

8. In these circumstances the Petitioner-APMC has filed a present petition.

9. Affidavit-in-reply dated 01.04.2026 has been filed by an authorised person by Respondent No. 2, contending as under :

That under Section 41A of the said Act, the Director may prohibit execution of any resolution passed by the Market Committee. That as per Section 52B of the said Act, any person aggrieved by a decision taken or order passed under any provisions of the said Act, may prefer an appeal. That in the appeal, neither party has produced alleged resolutions dated 06.09.2021 and 18.09.2021 and therefore Respondent No. 2 has rightly proceeded with appeal. That since Respondent No. 1 made a grievance that he was suspended from the post of Secretary *ex-parte* and without giving any opportunity of being heard. That since alleged resolutions are not produced on record, the appeal has been allowed. That as per statutory audit report and statutory inquiry, no specific allegations were made or observations were found against Respondent No. 1 in respect of any malpractice or illegality.

SUBMISSIONS

10. The learned counsel Mr. Kulkarni, appearing for the Petitioner submitted an under.

10.1. That Respondent No. 2-Director of Marketing has passed the impugned order without jurisdiction or without holding any lawful authority. That Respondent No. 2-Director of Marketing not only failed to maintain separation of powers but has protected Respondent No. 1 from the process of inquiry about malpractices.

10.2. That Resolution passed by the Petitioner-APMC cannot be suspended without any finding as to how the resolution is prejudicial to the interest of the APMC or how the resolution is against public interest or how the resolution is likely to hinder efficient running of the business.

10.3. That Respondent No. 2-Director of Marketing has no authority under Section 52B of the said Act to interfere at the stage of inquiry, which is necessary for fact finding.

10.4. That not only the resolution dated 18.09.2021 (appointing inquiry committee) but the entire resolution where issues pertaining to malpractices of Respondent No. 1 were raised and discussed, has been quashed.

10.5. That the order dated 13.10.2021 granting extension of suspension has not been challenged by Respondent No. 1 and since the resolution to suspend Respondent No. 1 stood merged with the order of 13.10.2021, no cause of action was available because the order of competent authority is not appealable under Section 52B of the said Act.

10.6. That once the competent authority invokes power and takes

over the resolution of APMC, then the proceedings before Respondent No. 2 become infructuous.

11. On the other hand, Mr. Hande, learned counsel for Respondent No. 1 submitted that Petitioner has an alternative remedy and writ petition may not be entertained. He submitted that the Petitioner APMC wanted to dismiss Respondent No.1 by whatever means possible. That Respondent No. 1 is already retired. That appeal filed by Respondent No. 1 is very much maintainable under Section 52B(1)(a) of the said Act. That Assistant Registrar had no power to extend suspension period. That harsh penalty of suspension could not have been imposed with immediate effect without any inquiry and opportunity of being heard given to Respondent No. 1. He has prayed for dismissal of petition.

12. Learned AGP has supported the impugned order by relying on affidavit in reply dated 01.04.2026.

REASONS AND CONCLUSION

13. I have considered the rival submission and perused the record.

14. At the outset, there is merit in the submission of learned counsel for the Respondent No.1 that the Petitioner-APMC apparently has an alternative remedy available to challenge the impugned order, by preferring an appeal to State Government under Section 52B(1) (b) of the said Act. In fact, the Petitioner-APMC had adopted the said route while challenging the interim order passed by the Respondent No.2-Director, when the concerned Minister had interfered by passing

order dated 15.12.2021. Therefore, it is rightly pointed out by learned counsel for the Respondent No.1 that if the Petitioner-APMC can file appeal against interim order of Director, there was no reason to file present Writ Petition directly without following the alternative remedy of appeal before the State Government. Be that as it may. Rule of not entertaining writ petition if alternative remedy is available, is a rule of self-restraint. The Petition has been pending since 2022. Reply was permitted to be filed. Affidavit in reply has been filed on behalf of Respondent No. 2.

15. At the outset, it is necessary to consider the submission about jurisdiction/power of Respondent No.2 under Section 52B of the said Act reads as under:

“52B. Appeal. -(1) Save as otherwise provided elsewhere in this Act, any person aggrieved by a decision taken or order passed under any of the provisions of this Act may prefer an appeal-

(a) to the Director where such decision is taken or order is passed by the Market committee, its Chairman, Vice-Chairman, Secretary or any other officer empowered to exercise the powers of the Director,

(b) to the State Government, where such decision is taken or order is passed by the Director.

(2) An appeal under sub-section (1) shall be made within a period thirty days from the date of the decision or order appealed against.

(3) The order passed in the appeal by the Director or the State Government as the case may be shall be final.”

(emphasis supplied)

16. It is therefore clear that any person aggrieved by a decision taken or order passed under any of the provisions of the said Act can prefer appeal. In the present case, 'decision was taken' by the Petitioner-APMC to conduct inquiry of Respondent No.1 and suspend him with immediate effect by alleged resolutions dated 06.09.2021 and 18.09.2021 and order dated 18.09.2021, the said 'decision taken' and order passed can be challenged in appeal before Director under Section 52B(1)(a) of the said Act. In that view of the matter, appeal by Respondent No. 1 is maintainable under Section 52B(1)(a) to Respondent No.2-Director.

17. The next contention is that the power of Director to prohibit execution of resolution or order made by the Committee are restricted only if the Director is of the opinion that such resolution or order is prejudicial to the public interest or is likely to hinder efficient running of the business, cannot be accepted. Section 41A of the said Act is as under:

“41A. Powers of the Director to prohibit execution of resolution passed or order made by Committee, etc.- (1) The Director may, on his own motion, or on report or complaint received by him, by order, prohibit the execution of a resolution passed or order made by the Committee or its Chairman or Vice-Chairman or any of its officer or servants of the Market Committee, if he is of the opinion that such resolution or order is prejudicial to the public interest or is likely to hinder efficient running of the business in any market area, principal market yard or sub-market yard or is against the provision of this

Act or the rules or bye-laws made thereunder.

(2) Where the execution or further execution of a resolution or order is prohibited by an order made under sub-section (1) and continuing in force, it shall be the duty of the Committee, if so required by the Director, to take any action which the Market Committee would have been entitled to take, if the resolution or order had never been passed or made and which is necessary for preventing the Chairman or Vice-Chairman or any of its officers or servants from doing or continuing to do anything under such resolution or order.”

(emphasis supplied)

18. It is therefore clear that even if the Director is of the opinion that the resolution passed and order made by the Committee is against the provisions of the said Act or Rules or bye-laws made thereunder, the power can be exercised.

19. Perusal of the impugned order shows that the Director found that alleged resolutions dated 06.09.2021 and 18.09.2021 are not produced on record and therefore obviously it was found that there is no resolution to take immediate action of suspension of Respondent No.1. The Director also found that in the Order/Communication dated 18.09.2021, reasons for immediate suspension of Respondent No.1 are not mentioned. The Director has found that under Rule 102 of the The Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 (‘the said Rules’ for short), suspension is a penalty and the Market Committee has not given appropriate and sufficient reasons while imposing such penalty.

He also found that while imposing penalty, necessary procedure by giving appropriate opportunity to the concerned person has not been followed.

20. Three months' extension of suspension period secured by the Petitioner-APMC was also found to be against Rule 100(6) of the said Rules, in as much as such, extension is found to be given by the Assistant Registrar, when such right is available with the District Deputy Registrar (Co-operative Societies) under circular dated 18.09.1981.

21. The Director also found that in the agenda for meeting dated 06.09.2021, the subject of suspension of Respondent No.1 was not included.

22. The Director has also held that since this Court under order dated 22.12.2021 in Writ Petition No. 9427 of 2021 has directed him to hear the pending appeal, it is found appropriate to pass order on merits. The Director on finding that major penalty has been imposed by not observing said Rules and by violating principles of natural justice, hence the appeal has been allowed.

23. In view of the aforesaid findings, it cannot be said that situation did not exist to exercise powers under Section 41A of the said Act.

24. Though photocopies of alleged Resolutions dated 06.09.2021 and 18.09.2021 (partly in handwritten form and partly in typed version) are tendered in this Court by the learned counsel for the

Petitioner, since its copies were not produced before the Respondent No.2-Director, the same cannot be considered for the first time in writ jurisdiction. Their existence appears doubtful. The conclusion drawn by the Director that there was no such resolution for initiating harsh action of suspension and inquiry of Respondent No.1 cannot be faulted.

25. In the aforesaid facts and circumstances and for reasons indicated above, no perversity is found on the impugned order. No case for interference is made out.

26. **Writ petition is dismissed. No order as to costs.**

27. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)