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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12969 OF 2016

The Kalyan Krushi Utpanna Bazar
Samitee (Kalyan Agriculture Produce
Market Committee)

... Petitioner

Vs.

ATUL
GANESH
KULKARNI

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KULKARNI
Date: 2026.08.20
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1. ~~Sadashiv Bhau Kurhade~~ (deleted)

1a. Kusum Kurhade

1b. Bhushan Kurhade

1c. Ushakiran Hande

1d. Pramila Walunj

1e. Suvarna Phapale

1f. Aparna Hadawale

2. The Joint Director (Marketing)

3. The District Deputy Registrar,
Cooperative Societies, Dist. Thane

4. The State of Maharashtra

... Respondent

WITH
INTERIM APPLICATION (ST.) NO.5538 OF 2026
IN
WRIT PETITION NO.12969 OF 2016

Kusum Kurhade & Others

... Applicants

In the matter between

The Kalyan Krushi Utpanna Bazar
Samiti (Kalyan Agriculture Produce
Market Committee)

... Petitioner

Vs.

Kusum Kurhade & Others

... Respondent

**WITH
WRIT PETITION NO.12755 OF 2016**

**The Kalyan Krushi Utpanna Bazar
Samitee** (Kalyan Agriculture Produce
Market Committee)

... **Petitioner**

Vs.

- 1. Sandip Bansi Walunj**
- 2. The Joint Director (Marketing)**
- 3. The District Deputy Registrar,
Cooperative Societies, Dist. Thane**
- 4. The State of Maharashtra**

... **Respondent**

Mr. Kirit Hakani with Mr. Rahul Hakani and Ms. Niyati Mankad for the Petitioner.

Mr. Kalpesh Joshi with Ms. Nisha Shah i/by Kalpesh Joshi Associates for the applicant in IA & for respondent Nos.1A to 1F in WP.

Smt. Mamta Shrivastava, AGP for respondent Nos.2 to 4-State.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 18, 2026.

PRONOUNCED ON : AUGUST 20, 2026

JUDGMENT:

1. Since a common question of law arises in both these writ petitions, both the writ petitions are being decided by this common judgment and order. For convenience, the facts in Writ Petition No.12969 of 2016 are being referred to, as it is treated as the lead matter.

2. By these writ petitions filed under Articles 226 and 227 of the Constitution of India, the Petitioner has challenged the legality, validity, and propriety of the order dated 25 July 2016 passed by respondent No.2 in Appeal No.16 of 2016. The said order was passed by respondent No.2 while exercising powers under Section 52B of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963.

3. The facts which led to filing of the present writ petition, according to the Petitioner, are as follows. Respondent No.1 had made an application to the Petitioner for allotment of one Gala admeasuring 150 sq. ft. in Building No.1, described as 'A' Type Building, which was to be constructed in Bajipala Bazaar Vibhag-2. The application contained the terms and conditions on which the Gala was sought. From the application, it appears that the Gala was sought for the respondent's own business. It was provided that the Lease Deed was required to be registered by the allottee, namely Respondent No.1. After considering and scrutinising the application made by Respondent No.1, the Market Committee of the Petitioner, by Resolution dated 31 May 2012, decided to allot Gala No.B-16 in the 'A' Type Building to Respondent No.1., the Petitioner issued an Allotment Letter dated 25 June 2012 in favour of Respondent No.1. By the said letter, Gala No.B-16, admeasuring 150 sq. ft. built-up area in the "A" Type Building, was allotted for a period of 29 years. Respondent No.1 was required to pay an interest-free security deposit of Rs.4,80,000/- and annual rent of Rs.1,400/-. Clause 3 of the Allotment Letter provided that if the licence was not renewed or was cancelled, the allotment would

stand cancelled. Clause 4 provided that the allottee was required to carry on business in the Market Yard and, if he failed to do so, the allotment would stand cancelled. Thus, according to the Petitioner, the allotment was substantially for the personal use of the allottee and for carrying on business in agricultural produce. Respondent No.1 accepted the terms and conditions contained in the Allotment Letter. Respondent No.1 executed an unregistered Agreement to Lease dated 18 April 2016. It was not a registered Lease Deed. The Agreement provided, amongst other things, for payment of annual rent of Rs.1,400/-. Clause 16 of the Agreement to Lease provided that registration of the Agreement of Lease was compulsory. Clause 9 further provided for resolution of disputes by a Court of competent jurisdiction. Respondent No.1 had, from time to time, paid the entire interest-free security deposit of Rs.4,80,000/-.

4. By an application dated 25 November 2014, Respondent No.1 requested transfer of Gala No.B-16 in the "A" Type Building, which was reserved for him in the building under construction, in favour of one Mr. Ramzan Habib Khan. In the application, Respondent No.1 requested the Petitioner to transfer the allotment in favour of Mr. Ramzan Habib Khan, whom he described as his associate. The reason given was that Respondent No.1 was in weak financial condition. Along with this application, a request letter made by Mr. Ramzan Habib Khan was submitted on 25 November 2014. According to the Petitioner, one of the conditions of allotment was that the allottee should be carrying on business in agricultural products. It is further the case of the Petitioner that

neither Respondent No.1 nor Mr. Ramzan Habib Khan stated in their respective applications that Mr. Ramzan Habib Khan was a licence holder or that he was carrying on business in agricultural products in the Market Area. Even in the Memorandum of Appeal filed by Respondent No.1, there was no assertion that Mr. Ramzan Habib Khan was a licence holder or was carrying on actual business in agricultural products.

5. The application made by Respondent No.1 for transfer of the allotment was placed before the meeting of the Market Committee held on 23 December 2014. In that meeting, the Market Committee passed Resolution No.11 regarding applications for transfer of allotments. There were six applications before the Committee, including the applications of Sadashiv Bhau Kurhade, who is Respondent No.1, and Sandeep Bansi Valunj. According to the Petitioner, by the said Resolution, all the applications were rejected for different reasons. One of the important reasons was that an allotment could not be transferred before actual possession or handing over of the Gala. Another reason was that the applications showed that the allottees, including Respondent No.1, no longer required the Galas which had been allotted to them for carrying on their business.

6. In view of the Resolution passed by the Market Committee, the Chairman of the Petitioner issued an order dated 17 January 2015 cancelling the allotment of the Gala. The Petitioner decided to refund the security deposit of Rs.4,80,000/-. Accordingly, cheque No.433247 was forwarded to Sadashiv Bhau Kurhade, namely Respondent No.1. However, Respondent No.1 did not

accept the Registered Post containing the cheque, and the postal article was returned with the endorsement "Address Incomplete". One Mr. Rajendra Balkrishna Hande made a complaint dated 13 August 2015 to Respondent No.2. In the complaint, it was stated that the Petitioner had issued a Public Notice for auction sale of two Galas which had earlier been allotted to Respondent No.1 and Sandeep Valunj and whose allotments had been cancelled about eight months earlier. Mr. Rajendra Balkrishna Hande complained that the Petitioner had refused to provide him with the tender documents.

7. On 17 August 2015, Gala No.B-16 was allotted by public auction to Mr. Shaikh Mehboob Rashid Bhagwan, who had made the highest offer of Rs.6,40,000/-. Similarly, Gala No.A-18 was allotted to Mr. Munna Ramdas Yadav for Rs.6,10,000/-. According to the Petitioner, Respondent No.2 passed the impugned order without joining Mr. Shaikh Mehboob Rashid Bhagwan as a party to the proceedings. The Petitioner contends that Mr. Shaikh Mehboob Rashid Bhagwan was directly affected by the impugned order, since Gala No.B-16 had been allotted to him in the public auction.

8. The complaint made by Mr. Rajendra Balkrishna Hande, who acted as the Constituted Attorney of Respondent No.1, was forwarded by Respondent No.2 to Respondent No.3 for enquiry and report by letter dated 21 August 2015. Respondent No.3 caused an enquiry to be conducted through his subordinate officer, namely the Deputy Registrar, Co-operative Societies, Taluka Kalyan. After the enquiry, Respondent No.3 submitted a report dated 15 December 2015 to Respondent No.2. In the said report, it

was recorded that there was no substance in the complaint made by Mr. Rajendra Balkrishna Hande. The Petitioner submits that Respondent No.1 did not challenge the cancellation of allotment of Gala No. B-16. Respondent No.1 did not challenge its auction sale conducted in August 2015. It is further the case of the Petitioner that Respondent No.1 did not make any complaint before any authority, including Respondent Nos.2, 3 and 4, either personally or through Mr. Rajendra Balkrishna Hande. According to the Petitioner, the complaint filed by Mr. Rajendra Balkrishna Hande clearly shows that it was not filed for or on behalf of Respondent No.1. The complaint was filed by Mr. Rajendra Balkrishna Hande in his own personal capacity. The Petitioner further states that, for reasons best known to him, Mr. Rajendra Balkrishna Hande filed Appeal No.16 of 2016 on 8 February 2016 in the name of Respondent No.1, after obtaining a Power of Attorney from Respondent No.1 in his favour.

9. The Petitioner filed its reply to the said Appeal on 26 April 2016 and opposed the Appeal. In the reply, the Petitioner raised a preliminary objection regarding the maintainability of the Appeal and regarding the jurisdiction of Respondent No.2 to entertain it. However, according to the Petitioner, Respondent No.2 decided the Appeal without deciding or disposing of these preliminary objections. Respondent No.2 passed the impugned order dated 25 July 2016 and allowed the Appeal. According to the Petitioner, the order is illegal, improper, unjust, arbitrary and does not give proper reasons. It is the case of the Petitioner that, in substance, the Appeal was being pursued by Mr. Rajendra Balkrishna Hande.

Being aggrieved by the said order, the Petitioner in each of these writ petitions has approached this Court.

10. The Petitioner further submits that Respondent No.2 failed to consider that Respondent No.1 had no locus standi to challenge the report submitted by Respondent No.3 to Respondent No.2. According to the Petitioner, the report of Respondent No.3 was prepared on the basis of the complaint made by Mr. Rajendra Balkrishna Hande and not on the basis of any complaint made by Respondent No.1. This, according to the Petitioner, is clear from the letter dated 21 August 2015 addressed by Respondent No.2 to Respondent No.3, by which an enquiry into the complaint was directed.

11. Mr. Hakani, learned Advocate appearing for the Petitioner, submitted that Respondent No.2 failed to consider that a complaint made by a third person, even though it referred to the allotment concerning Respondent No.1, could not extend the period of limitation available to Respondent No.1 for filing an appeal against the Resolution passed by the Market Committee on 23 December 2014. According to him, the appeal filed against the said Resolution was clearly beyond the prescribed period of limitation. He submitted that no proper explanation was given for the delay in filing the appeal.

12. Mr. Hakani further submitted that there is a clear difference between the reasons stated by Respondent No.1 at different stages for seeking transfer of the allotment. In the application made by Respondent No.1 for transfer, he had stated that he was unable to

continue the business because of his weak financial condition. However, in the Memorandum of Appeal, a different reason was given. It was stated that the Gala was not sufficient or suitable. He further submitted that, in the original application, Respondent No.1 had requested transfer of the allotment in favour of Mr. Ramzan Habib Khan. However, in the Memorandum of Appeal, Respondent No.1 stated that he had requested transfer of the allotment in favour of Mr. Hitesh Harakchand Dediya. According to Mr. Hakani, these different statements show inconsistency in the case of Respondent No.1.

13. By inviting my attention to Section 52B of the Act, Mr. Hakani submitted that an appeal under the said provision is required to be filed within 30 days from the date of the order against which the appeal is filed. He submitted that, in the present case, the Resolution was passed on 23 December 2014, whereas the appeal was filed only on 8 February 2016. He submitted that the explanation given in paragraph 4 of the Memorandum of Appeal was that the complaint of the applicant was decided on 15 December 2015 and that the decision was received by the appellant on 28 January 2016. However, according to Mr. Hakani, the order challenged in the appeal was not an order passed on any complaint filed by Respondent No.1. The complaint was made by Mr. Rajendra Hande. He further submitted that, while filing the complaint, Mr. Rajendra Hande had not even stated that he was acting as the constituted Power of Attorney holder of Respondent No.1. Therefore, according to Mr. Hakani, the complaint filed by a third person could not give a fresh cause or starting point for filing

an appeal against the Resolution dated 23 December 2014. He, therefore, submitted that the appeal was clearly barred by limitation.

14. On the other hand, Mr. Joshi, learned Advocate appearing for the Respondents, submitted that Mr. Rajendra Balkrushna Hande had stated in his complaint made before the Director, Maharashtra, that the allotment and subsequent tender process were illegal and that the allottees were not given any notice before cancellation of their allotment. He, therefore, submitted that Mr. Rajendra Hande was in fact acting on behalf of Respondent No.1 as his constituted Power of Attorney holder.

15. Mr. Joshi further submitted that the explanation given in paragraph 3 of the Memorandum of Appeal was sufficient to explain the delay in filing the appeal. According to him, the Appellate Authority had rightly considered the facts of the case. He submitted that the allotment made in favour of Respondent No.1 was for a period of 29 years. However, the Market Committee, without giving any notice to Respondent No.1, passed the Resolution dated 23 December 2014 cancelling the allotment and decided to conduct a public auction in respect of the said shop. According to Mr. Joshi, since the allotment was cancelled without giving an opportunity of hearing to the allottee, the subsequent auction and tender process were not valid. He submitted that the Appellate Authority had, therefore, rightly allowed the appeal and granted appropriate relief. He, accordingly, prayed that the writ petitions be dismissed.

REASONS AND ANALYSIS:

16. I have considered the submissions made by the learned Advocates appearing for the respective parties. I have gone through the material placed on record and the order passed by Respondent No.2, which is under challenge in these writ petitions. The main questions which now arise for consideration are whether the appeal filed before Respondent No.2 was within the prescribed period of limitation, whether the complaint made by Mr. Rajendra Balkrishna Hande could give a fresh starting point for filing an appeal against the Resolution dated 23 December 2014, and whether Respondent No.2 was justified in setting aside the Resolution of the Market Committee and the consequential action taken.

17. Before going to these questions, it is necessary to see the nature of the original allotment. As stated in paragraph 4 above, Gala No.B-16, admeasuring 150 sq. ft., was allotted to Respondent No.1 for a period of 29 years. Respondent No.1 was required to pay interest-free security deposit of Rs.4,80,000/- and yearly rent of Rs.1,400/-. However, the allotment was subject to certain conditions. Clause 3 of the Allotment Letter provided that if the licence was not renewed or was cancelled, the allotment would stand cancelled. Clause 4 further required the allottee to carry on business in the Market Yard. If such business was not carried on, cancellation of the allotment could follow. The Petitioner has, therefore, submitted that the Gala was allotted for personal use of Respondent No.1 and for carrying on his business relating to agricultural produce. According to the Petitioner, such allotment

was not freely transferable to any other person. Respondent No.1, however, applied for transfer of the Gala because of his financial condition. The application dated 25 November 2014, referred to in paragraph 6 above, was for transfer of the allotment in favour of Mr. Ramzan Habib Khan, who was described as his associate.

18. Respondent No.1 asked for transfer on the ground that his financial condition was weak. The Petitioner has pointed out that neither the application of Respondent No.1 nor the request made by Mr. Ramzan Habib Khan stated that the proposed transferee had the required licence or was doing business in agricultural produce in the Market Area. Whether this fact was sufficient for cancellation of the allotment is a different question. But the application does show that Respondent No.1 was not intending to use the Gala for the business for which the Gala was allotted.

19. The Petitioner has pointed out that the stand taken by Respondent No.1 was not the same at different stages. In the application dated 25 November 2014, the reason given was financial weakness and transfer was sought in favour of Mr. Ramzan Habib Khan. However, in the Memorandum of Appeal, another case was put forward. It was stated that the Gala was not sufficient or suitable. Reference was made to Mr. Hitesh Harakchand Dediya. Thus, the reason for transfer and the person in whose favour transfer was said to be sought were different. However, merely because Respondent No.1 gave different reasons at different stages, it cannot mean that every action taken by the Market Committee becomes legal. The real question is whether, on the basis of the material before it and the applicable conditions of

allotment, the Market Committee was entitled to reject the request for transfer and cancel the allotment. This question has to be considered. The inconsistency in the case of Respondent No.1 may be relevant. But, it cannot decide the whole controversy.

20. The Resolution dated 23 December 2014 was passed by the Market Committee after considering six applications for transfer of allotment, including the application of Respondent No.1. According to the Petitioner, all these applications were rejected because the Galas had not been handed over and, therefore, the allotment could not be transferred at that stage. It was observed that the applications showed that the allottees did not require the Galas for carrying on their own business. Therefore, the Resolution dated 23 December 2014 was the main decision which affected Respondent No.1. If Respondent No.1 was aggrieved by rejection of his request or by the consequences arising from that Resolution, he was required to take recourse to the statutory remedy available to him in accordance with Section 52B of the Act.

21. Section 52B(1), reproduced above, provides as follows:

“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.”

22. Thus, a person who is aggrieved by a decision of the Market Committee can file an appeal before the Director. However, this right of appeal is subject to the period prescribed under sub-section (2). The language of sub-section (2) is clear. It provides:

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

23. The words “within a period of thirty days from the date of the decision or order appealed against” are important for deciding the present matter. The period starts from the date of the decision or order which is under challenge. In the present case, the Resolution sought to be challenged was passed on 23 December 2014. The appeal, however, came to be filed only on 8 February 2016. Therefore, when these dates are seen, the appeal was filed much after the period of thirty days. Respondent No.1 tried to explain this by referring to the complaint made by Mr. Rajendra Balkrishna Hande and to the inquiry report dated 15 December 2015. It was stated that the decision on the complaint was received by the appellant on 28 January 2016. On that basis, it was contended that the appeal filed on 8 February 2016 should be treated as within time from the date when such decision or information was received.

24. The record shows that the complaint was dated 13 August 2015, and it was made by Mr. Rajendra Balkrishna Hande. The Petitioner has contended that this complaint was made by him in his individual capacity. It is the case of the Petitioner that, when the complaint was filed, Mr. Hande had not stated that he was

acting as the constituted Power of Attorney holder of Respondent No.1. The material appearing from the order of the Appellate Authority shows that the proceedings before Respondent No.2 were substantially connected with the complaint and the inquiry which followed. The translated order records that the parties were heard, and the question considered was whether the appellants had a right to file an appeal under the relevant provision of the Act. It records that the inquiry report dated 15 December 2015 was said to be one-sided because the concerned persons were not given an opportunity to put forward their case. However, the difficulty is that an inquiry report prepared later on the basis of a subsequent complaint cannot,, change the date of the Resolution dated 23 December 2014. If the appeal was against the Resolution of the Market Committee dated 23 December 2014, limitation under Section 52B(2) had to be counted from the date of that Resolution. A complaint made later by another person cannot normally give a fresh period of limitation for challenging an earlier decision.

25. Mr. Joshi submitted that Mr. Rajendra Balkrishna Hande was acting as the constituted Power of Attorney holder of Respondent No.1 and, therefore, his complaint should be treated as a complaint made on behalf of Respondent No.1. Even if this submission is accepted for examining the matter in the manner favourable to Respondent No.1, the position does not change much. A complaint made in August 2015 cannot convert the Resolution dated 23 December 2014 into a new or fresh decision. Section 52B does not provide that limitation will begin from the

date on which an inquiry report arising from a later complaint is received. Therefore, the Appellate Authority was required to decide which actual order or decision was under challenge in the appeal. If it was the Resolution dated 23 December 2014, the appeal was clearly beyond thirty days. If some separate and independent order passed later was under challenge, then the Appellate Authority was required to identify that particular order and examine whether an appeal against such order was maintainable under Section 52B.

26. The impugned appellate order does not undertake this exercise. It refers to earlier proceedings, the complaint, the inquiry report and other matters. However, there is no clear finding as to how the appeal against the Resolution dated 23 December 2014 was within the limitation prescribed under Section 52B(2). The translated order ultimately records that “The order dated 23 December 2014, which is under challenge in the present appeal, and the consequential order dated 15 December 2015 are set aside.” The matter was remanded for fresh consideration.

27. This shows that the Resolution dated 23 December 2014 was treated as the order under challenge in the appeal. Once this position becomes clear, Respondent No.2 was required to deal with the specific objection raised by the Petitioner that the appeal was filed after expiry of the statutory period of thirty days. The Petitioner had raised this objection in its reply to the appeal. It went to the basic question whether the statutory appeal could be entertained. Respondent No.2 was, therefore, expected to give a clear finding on this issue before proceeding further into the merits

of the dispute.

28. At the same time, I am unable to accept the wider submission of the Petitioner that once Respondent No.1 made an application for transfer of the Gala, the Market Committee could straightway cancel the allotment and auction the Gala without further consideration. The application for transfer may give a reason for rejecting the request. It may be relevant for considering whether the conditions of allotment were breached. But cancellation of an allotment made for a period of 29 years is a consequence. Whether the terms of allotment permitted such cancellation on the facts existing on 23 December 2014 had to be considered by referring to the actual conditions and the procedure which was followed. The Appellate Authority found that the concerned persons were not given an opportunity to put forward their case in the inquiry which resulted in the report dated 15 December 2015. The translated order records that "the Petitioners were not given an opportunity to submit their case" and, therefore, the inquiry report was considered to be one-sided. However, the question relating to the inquiry report is different from the question about the validity of the Resolution dated 23 December 2014. The inquiry report was prepared much later. Even if it is assumed that the inquiry report was one-sided, that fact alone could not establish that the earlier Resolution of the Market Committee was illegal. Respondent No.2 was required to examine the Resolution, the conditions of allotment, the application seeking transfer and the action of cancellation.

29. There is one more difficulty in the impugned order. By the time the appellate proceedings were decided, Gala No.B-16 had been put for public auction. It was allotted to Mr. Shaikh Mehboob Rashid Bhagwan, who had made the highest offer of Rs.6,40,000/-. The Petitioner has contended that he was not joined as a party in the appeal. The impugned order shows that Respondent No.2 finally set aside the Resolution dated 23 December 2014 and the consequential order. Such an order could directly affect the allotment made in favour of the successful auction purchaser. Still, there is nothing to show that this purchaser was given an opportunity of hearing before an order affecting his rights was passed. Therefore, the submission of the Petitioner that the impugned appellate order suffers from a procedural defect has substance. When an existing allotment of a person is likely to be directly affected by setting aside an earlier action, such person should ordinarily be given an opportunity before an adverse order affecting his interest is passed.

30. However, in the present matter, this Court is not required to merely set aside the impugned order and again send the parties before the Appellate Authority. The relevant facts necessary for deciding the main controversy are available on record. The main issue is regarding the legal effect of the appeal filed against the Resolution dated 23 December 2014 after the period prescribed under Section 52B(2). On overall consideration of the material, I find that the appeal filed on 8 February 2016 against the Resolution dated 23 December 2014 cannot be treated as an appeal filed within thirty days from the date of the decision which

was challenged. The complaint dated 13 August 2015 and the inquiry report dated 15 December 2015 cannot give a fresh starting point for challenging the Resolution dated 23 December 2014. The explanation that the inquiry report was received on 28 January 2016 does not answer the main question. The statutory appeal was directed against the Resolution dated 23 December 2014. The period prescribed under Section 52B(2) was not made dependent upon the date when an inquiry report, prepared in later and separate proceedings, was received. It is true that Respondent No.1 gave a Power of Attorney in favour of Mr. Rajendra Balkrishna Hande. However, a subsequent Power of Attorney cannot change the nature or legal effect of the earlier complaint when, on the material before this Court, the complaint did not show that it was filed by Respondent No.1 through his constituted attorney. I find that the reasons given by Respondent No.1 for transfer of the Gala were not consistent. In the original application, financial weakness was stated and transfer was sought in favour of Mr. Ramzan Habib Khan. In the appeal, a different case was put forward regarding insufficiency or unsuitability of the Gala and another person was referred to. These inconsistencies by do not decide whether cancellation was legal. Still, they do weaken the basis on which Respondent No.1 sought to challenge the action of the Market Committee after considerable delay.

31. At the same time, the finding that the appeal was barred by limitation should not mean that this Court is approving every observation or every action of the Market Committee. The question before Respondent No.2 in the statutory appeal was whether the

Resolution dated 23 December 2014 could be challenged by an appeal filed on 8 February 2016. On the material available, this question has to be answered against Respondent No.1. Therefore, the Appellate Authority could not have set aside the Resolution dated 23 December 2014 and the consequential proceedings without dealing with the statutory objection of limitation. It could not have passed an order affecting the subsequent allotment made in favour of the successful auction purchaser without giving him an opportunity of hearing.

32. For these reasons, the impugned order dated 25 July 2016 passed by Respondent No.2 in Appeal No.16 of 2016 cannot be sustained. The appeal filed by Respondent No.1 before Respondent No.2 was barred by limitation under Section 52B(2) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. The subsequent complaint made by Mr. Rajendra Balkrishna Hande and the inquiry report dated 15 December 2015 did not extend or restart the statutory period for filing an appeal against the Resolution dated 23 December 2014. Consequently, the impugned appellate order dated 25 July 2016 is required to be quashed and set aside. Appeal No.16 of 2016 stands dismissed as barred by limitation. In view of this finding, the Resolution dated 23 December 2014 and the consequential action taken pursuant thereto cannot be disturbed on the basis of the impugned appellate order.

33. For the reasons recorded above, the following order is passed:

- (i) Both the Writ Petitions are allowed;
- (ii) The impugned order dated 25 July 2016 passed by Respondent No.2, namely the Director of Agricultural Marketing, Pune Division, Pune, in Appeal No.16 of 2016, is quashed and set aside;
- (iii) Appeal No.16 of 2016 filed before Respondent No.2 stands dismissed as barred by limitation under Section 52B(2) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963;
- (iv) Consequently, the Resolution dated 23 December 2014 passed by the Market Committee and the consequential action taken pursuant thereto shall not stand disturbed on the basis of the impugned appellate order dated 25 July 2016;
- (v) Rule is made absolute in the above terms.
- (vi) There shall be no order as to costs.
- (vii) In view of disposal of the writ petitions, all pending interlocutory applications stand disposed off.

(AMIT BORKAR, J.)