

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 2072 OF 2015

Godavari Khore Namdeoraoji
Parjane Patil

.. PETITIONER

VERSUS

Shrirampur Zilla Sahakari Doodh
Utpadak Sangh & others
AND

.. RESPONDENTS

Shri S. S. Amne }
Deputy Registrar Dairy }

AND }

The Commissioner (Dairy) }
Dairy Development Department }

.. ADDED RESPONDENT

AND

Sai Aadhaar Savyam Sahyata Bachat Gat

.. INTERVENER

AND

Navnath Sav Sahayata Bachat Gat

.. INTERVENER

AND

Sinnar Taluka Vibhagiya Sahakari Dudh
Utpadak And Prakriya Sangh

.. INTERVENER

Mr. R. N. Dhorde, Senior Counsel instructed by Mr. V.R. Dhorde, advocate for petitioner.

Mr. K.J. Ghute Patil, AGP for the State.

Mr. R. R. Karpe, advocate for respondent no. 1.

Shri B. S. Patel instructed by Mr. R.A. Tambe, advocate for respondent no. 2.

Shri V. J. Dixit, Senior Counsel instructed by Mr. A.A. Yadkikar, advocate for respondents 3 to 5.

Mr. A.V. Sakolkar, Mr. A.D. Soman and Mr. S.S. Chapalgaonkar, advocates for interveners.

**WITH
WRIT PETITION NO. 2077 OF 2015**

Sangamner Taluka Sahakari Doodh
Utpadak & prakriya Sangh Ltd.

.. PETITIONER

VERSUS

Shrirampur Zilla Sahakari Doodh
Utpadak Sangh & others

.. RESPONDENTS

AND

Shri S.S. Amne }
Deputy Registrar Dairy }
}

AND

The Commissioner (Dairy) }
Dairy Development Department }

.. ADDED RESPONDENTS

AND

Shri Sainath Savyam Sahyata Bachat Gut

.. INTERVENER

Mr. R. N. Dhorde, Senior Counsel instructed by Mr. V.R. Dhorde, advocate for petitioner.
Mr. K.J. Ghute Patil, AGP for the State.
Mr. R.R. Karpe, advocate for respondent no. 1.
Shri B. S. Patel instructed by Mr. R.A. Tambe, advocate for respondent no. 2.
Shri V. J. Dixit, Senior Counsel instructed by Mr. A.A. Yadkikar, advocate for respondents 3 to 5.
Mr. A.D. Soman, advocate for intervenor.

**WITH
WRIT PETITION NO. 2802 OF 2015**

Panchmahal District Co-operative
Milk Producers Union Limited
& another

.. PETITIONERS

VERSUS

Joint Registrar (Dairy)
& others

.. RESPONDENTS

Mr. R.A. Tambe with B.S. Patel, advocates for petitioner.
 Mr. S.G. Karlekar, AGP for the State.
 Mr. V.R. Dhorde, advocate for respondent no. 2.

**WITH
 WRIT PETITION NO. 2803 OF 2015**

Panchmahal District Co-operative
 Milk Producers Union Limited
 & another

.. PETITIONERS

VERSUS

Joint Registrar (Dairy)
 & others

.. RESPONDENTS

Mr. A.S. More, advocate for petitioners.
 Mr. S.G. Karlekar, AGP for the State.
 Mr. V.R. Dhorde, advocate for respondent no. 2.

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**CORAM : R.M. BORDE &
 V. K. JADHAV, JJ.**

RESERVED ON : 18th APRIL, 2015

PRONOUNCED ON : 6th MAY, 2015.

PER COURT :

1. Petitioners in Writ Petition nos. 2077/2015 and 2072/2015 are the Taluka level co-operative societies registered under the provisions of Maharashtra Co-operative Societies Act and are praying for issuance of directions to respondent no. 9 Joint Registrar (Dairy), to take decision on the complaint presented by petitioners against respondents within stipulated time frame. Petitioners are also seeking quashment of the order dated 13.02.2015 passed by respondent no. 9 contending that said order is in breach of principles of natural justice and is illegal and arbitrary.

2. Petitioners societies are federal societies functioning at taluka level

and the primary milk producing co-operative societies operating within their area of operation are their members. So far as Sangamner Taluka Doodh Sangh is concerned, its area of operation is to the extent of Sangamner taluka having 171 villages and the sangh has 208 primary level milk producer societies as its members. Apart from this, there are 58 registered member societies in total 171 villages which are also member societies of petitioners. So far as Godavari Khore Namdeoraoji Parjane Patil Taluka Sahakari Doodh Utpadak Sangh, Ahmednagar is concerned, its area of operation extends to Kopargaon taluka and 28 villages of Rahata which were earlier part of old Kopargaon taluka, on formation of Rahata taluka, are included in the said taluka. There are about 183 primary level milk producing societies and other 17 registered societies who are the members of Godavari Khore Namdeoraoji Parjane Patil Taluka Sahakari Doodh Utpadak Sangh, Ahmednagar. It is contended by petitioners in both the petitions that respondent no. 1 Shrirampur Zilla Sahakari Doodh Utpadak Sangh is another registered co-operative federal society having its area of operation extended to Rahata, Shrirampur, Rahuri and Newasa taluka. Respondent nos. 2 to 5 – societies are registered under Gujarat Co-operative Societies Act and, according to petitioners, they cannot be permitted to transact business and collect milk from the State of Maharashtra.

3. It is the contention of petitioners that as per the policy prescribed by the State of Maharashtra as per Government Resolution dated 15.09.2015, there exists three tier system in respect of collection, distribution and marketing of milk. At primary level or village level, there exists societies

entrusted with the task of collecting milk from the milk producers and such milk collected from milk producers by the primary societies is supplied either to the Taluka Doodh Sangh or the District Sangh. It is permissible to form a taluka milk union within a district and the existence of taluka milk union and the district sangh is protected at the same time. Option is available for the primary level co-operative societies to become member of taluka sangh or the district sangh and to supply milk to said middle level co-operative federal societies. The taluka or district sangh is affiliated to the State federation. There are certain pre-conditions prescribed for the taluka sangh and district sangh in respect of collection of milk and the minimum quantity of milk to be supplied so as to sustain its existence. Petitioners thus contend that milk collection by the societies either at primary level or at district level and taluka level is regulated under the directives issued by the State in exercise of powers conferred under Maharashtra Co-operative Societies Act, 1960. It is also contended that so far as minimum price payable to the agriculturists is concerned, the same is also prescribed by the State Government from time to time. Petitioners – Sangh also do take up various schemes for the benefit of milk producers with a view to ensure more and more augmentation of milk supply. The taluka level societies such as petitioners extend the benefit of expert veterinary service and also supply cattle feed to the milk producers, and impart training with a view to educate the milk producers and make them aware of the technical knowhow for augmenting milk production. The taluka milk union have also entered into the field of production and supply of cattle feed for the benefits of farmers. Petitioners thus contend that they have invested huge amount for

implementation of such projects. Petitioners contend that they are obliged to perform their functions within the frame work of law and have to obey the directions issued by the co-operation department and the State Government in respect of payment of price of milk. Thus, it is contended that there are certain restrictions on business operations of taluka milk union and they are not free to transact business like private businessmen and earn profit. The taluka sangh are operated on principles of co-operation and believe in social responsibility.

4. The action of respondents in bringing the private players in the field of milk collection is detrimental to the co-operative movement and detrimental to existence of petitioners/societies. It is contended that respondent no. 1 has entered into agreement with Panchmahal District Co-operative Milk Producers Union limited which is registered in the State of Gujarat. It is contended that under the garb of agreement entered into with respondent no. 1, respondent no. 2 is collecting milk from Ahmednagar district and also from the area of operation of petitioners Sangh. It is contended that although the agreement is for the purposes of processing milk, infact, under the garb of the said agreement, respondent no. 2 is conducting activities of milk collection which is contrary and violative of provisions of Maharashtra Co-operative Societies Act. It is contended that in similar fashion, respondents 3, 4 and 5 are collecting milk from the State of Maharashtra and so also from Ahmednagar district which is not permissible under the act of 1960. Respondents 3 to 5 are also the co-operative societies registered in Gujarat State and do not have entitlement to

operate in the State of Maharashtra. Complaint was as such presented by petitioners to respondent no. 9 calling upon him to take action and issue prohibitory action against respondents. Reliance is placed on a report tendered by Regional Dairy Development Officer, Nasik to Deputy Commissioner Dairy Development, Mumbai wherein it is disclosed that respondents 1 to 5 are illegally collecting milk from their area of operation i.e. Ahmednagar district. It is contended that on the first date of hearing prescribed in the matter, representatives of Surat Dairy and Valsad Dairy of Gujarat State were presented and they have admitted that they do not possess any permission to collect milk from the State of Maharashtra. According to petitioners, they were directed to produce registration certificates issued under the Gujarat Co-operative Societies Act alongwith bye-laws on the next date, however, they did not produce the documents and remained absent. Respondent no. 9 has issued a restrain order on 10.02.2015 restraining them from collecting milk from the State of Maharashtra, however, without any justifiable reason and without extending an opportunity of hearing to petitioners, immediately within three days i.e. on 13.02.2015, the order of stay granted earlier came to be withdrawn behind the back of petitioners. Petitioners thus contend that the order of revocation of stay by the Jt. Registrar – respondent no. 9 is illegal, arbitrary and in breach of principles of natural justice. It is contended that respondents need to be restrained from collecting milk from the State of Maharashtra.

5. Before considering the contentions raised by respondents, certain

provisions of Maharashtra Co-operative Societies Act need to be taken into consideration. Section 4 of the Act provides for the societies which may be registered. It is provided that a society which has its objects the promotion of the economic interests or general welfare of its members, or of the public, in accordance with co-operative principles, or a society established with the object of facilitating the operations of any such society, may be registered under the act. It is further provided that no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development of the co-operative movement, or the registration of which may be contrary to the policy directives which the State Government may, from time to time, issue. Section 9 of the act prescribes registration. It is provided that if the Registrar is satisfied that a proposed society has complied with the provisions of this act and the rules, or any other law for the time being in force, or policy directives issued by the State Government under section 4 and that its proposed bye-laws are not contrary to this act or to the rules, he shall within two months from the date of receipt of the application register the society and its bye-laws. Section 20 of the act provides for partnership of the society. It is prescribed that any two or more societies may, with the prior approval of the Registrar by resolution passed by three-fourths majority of the members present and voting at a general meeting of each such society, enter into partnership for carrying out any specific business or business, provided that each member has had clear ten days, written notice of the resolution and the date of the meeting. Approval of the Registrar is not needed in case of the society which has not taken any financial assistance from the Government, in the form of

share capital, loan or guarantee. Section 79A of the act provides for Government's power to give directions in the public interest. It is provided thus :

79A. [Government's power] to give directions in the public interest, etc.

(1) [If the State Government, on receipt of a report from the Registrar or otherwise, is satisfied] that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or implementation of co-operative production and other development programmes approved or undertaken by Government, or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or society in particular. [the State Government may issue] directions to them from time to time, and all societies or the societies concerned, as the case may be, shall be bound to comply with such directions.

(2) [The State Government may] modify or cancel any directions issued under sub-section (1), and in modifying or cancelling such directions may impose such conditions as [it may deem fit.]

(3) Where the Registrar is satisfied that any person was responsible for complying with any directions or modified directions issued to a society under sub-sections (1) and (2) and he has failed without any good reason or justification, to comply with the directions, the Registrar may by order -

(a) if the person is a member of the committee of the society, [declare him to be disqualified to be or to continue to be a member of the committee of any society,] for a period of six years from the date of the order;

(b) if the person is an employee of the society, direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with this

order, [* * *] declare them disqualified as provided in clause (a) above;

Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society is affiliated.

[Provided further that, such federal society shall communicate its opinion to the Registrar within a period of forty-five days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to take action under this section and the Registrar shall be at liberty to proceed further to take action accordingly.]

Any order made by the Registrar under this section shall be final.]

Section 157 of the act provide for power to exempt societies from provisions of act whereas section 159 provides branches etc. of societies outside the State. Section 157 and 159 of the act provide thus :

157. Power to exempt societies from provisions of Act.

The State Government may, by general or special order, [* * *] exempt any society or class of societies [* * *] from any of the provisions of this Act, [or of the rules made thereunder,] or may direct that such provisions shall apply to such society or class of societies [* * *] with such modifications not affecting the substance thereof as may be specified in the order:

Provided that, no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

[Provided further that, the State Government shall not exempt any society or class of societies from the provisions made under section 26, 73A, 73AAA,

73B, 73C, 73CA, 73CB, 73E, 75, 76, 78 and 81.]

159. Branches, etc. of societies outside the State

(1) No society shall open a branch or a place of business outside the State of Maharashtra, and no co-operative society registered under any law in other State shall open a branch or a place of business in the State of Maharashtra, without the permission of the Registrar.

(2) Every co-operative society registered under any law in any other State, and permitted to open a branch or a place of business in the Maharashtra State under the foregoing sub-section, or which has a branch or a place of business in the Maharashtra State at the commencement of this Act, shall, within three months from the opening of such branch or place of business or from the commencement of this Act, as the case may be, file with the Registrar a certified copy of the bye-laws and amendments and, if these are not written in English language, a certified translation thereof in English or Hindi, and shall submit to the Registrar such returns and information as are submitted by similar societies registered under this Act in addition to those which may be submitted to the Registrar of the State where such society is registered.

6. Petitioners contend that the agreement entered into by respondent no. 1 society with Panchmahal dairy does not have any sanction of the State Government. It is contended that, infact, the activities of the societies registered in Gujarat are adversely affecting the co-operative societies registered in Maharashtra including respondent no. 1 Shrirampur taluka sangh. It is pointed out that milk collection of Shrirampur taluka sangh has considerably gone down still respondent no. 1 society has permitted Panchmahal dairy to open collection centers within its area of operation. It is contended that as a result of activities of respondent societies which are

registered in the State of Gujarat, the co-operative movement of Maharashtra State is affected and certain societies in Dhule and Nandurbar district as well as respondent no. 1 society are on the brink of bankruptcy. It is contended that it would not be in the interest of co-operative movement in the State of Maharashtra to permit respondents to continue with the activities of milk collection in the State. Petitioners have also contended that respondent no. 2 under the garb of agreement entered into with respondent no. 1 society, is collecting milk within the area of operation of petitioner society which is prejudicial to their interest. It is thus contended that restrain order needs to be issued against respondent societies which are registered in the State of Gujarat.

7. An affidavit in reply has been presented on behalf of the State by one Anil Vishwanath Bhangare, Assistant Registrar, Co-operative Societies (Dairy), Ahmednagar, who has stated that the societies registered in the State of Gujarat including respondent no. 2 society have not secured permission from the Registrar or from the Government of Maharashtra for conducting business activities in the State of Maharashtra. It is also stated in the affidavit-in-reply that in view of section 159(i) of the act no co-operative society registered under any law in any other State shall open any branch or place of business in the State of Maharashtra without permission of the Registrar. It is contended that Panchamahar milk union and others are illegally collecting milk in Maharashtra. It is also stated in the affidavit-in-reply that the contention of the petitioner that interim relief granted in the matter on 10.02.2015 was vacated at the instance of respondents

societies is incorrect and the order has been vacated at the request of the farmers in the State who were affected by stay granted earlier since the milk in large quantity had gone waste and was not purchased by anybody including petitioner during these three days.

8. Respondent no. 2 Panchamahar co-operative society has presented affidavit-in-reply controverting the contentions raised in the petitions. Respondent no. 2 has categorically denied to have indulged into the activities of collecting milk in the State or within the area of operation of petitioners society. It is contended that the agreement entered into with respondent no. 1 society is only in the nature of allotting the job of receiving, processing and dispatching loose milk. It is contended that respondent no. 2 society is a member society of Gujarat State Co-operative Milk Federation which is a State federation and is authorised to use its logo 'Amul'. Respondent no. 2 purchases raw material for its business activities through out the State and, the milk is the raw material for production of its finished product which is collected from the non-members and private individuals in the State of Maharashtra. It is emphatically denied that respondent no. 2 has opened collection centers for collecting milk within the area of operation of petitioners societies. It is also denied that respondent no. 2 is collecting milk from the member societies of petitioners. It is contended that Bachat groups registered in the taluka collect milk and sell it to respondent no. 2. It is contended that the price paid to the milk producers through Bachat gats is quite on higher side than the price paid by petitioners to its members. It is contended that it has not been

demonstrated by petitioners that their milk collection is affected as a result of purchase of milk by respondent no. 2 from the private individuals. It is contended that agreement entered into by respondent no. 2 society with respondent no. 1 is limited to processing of milk. Said agreement is not hit by section 20(a) of the Act. It is also further contended that since petitioners have availed of alternate remedy, instant petitions are not maintainable. A separate petition is also presented by respondent no. 2 questioning the authority of respondent no. 9 to entertain the complaint and issue directions. It is also contended that since petitioner societies are not State within the meaning of Article 12, writ petitions are not entertainable. It is further contended that writ/direction is asked against the State which is not made party to the petition and as such, both the petitions shall not be entertained. It is also contended that if argument of petitioners that the agreement entered into by respondent no. 2 with respondent no. 1 is a camouflage and deceptive is to be accepted, the same requires adjudication and determination of disputed questions of facts. It is contended that since petitioners have raised disputed questions of fact, the petitions shall not be entertained.

9. So far as the complaint tendered by petitioners to respondent no. 9 is concerned, it is contended that copy of the same has not been transmitted to the respondent societies. Initially, the order has been passed by respondent no. 9 without observing the principles of natural justice and without extending an opportunity of hearing to respondents. It is contended that the respondents including respondent no. 2 did not

approach respondent no. 9 or any State authority for vacating the interim order. However, the agriculturists brought pressure on the Government for vacating the order. It is stated that during the span of just three days, more than forty lacs ltrs. Milk in the State belonging to the individual milk producers had gone waste since it was not purchased by any private player or the petitioner societies. Taking note of wastage of milk in the State and on consideration of the request of the farmers, interim order came to be vacated. It is stated that excess milk produced in the State is being purchased by the societies from Gujarat. The milk co-operative societies in State have capacity to lift only a small quantity of milk and rest of the milk is purchased by private players who do not pay adequate price. It is contended that milk purchased by milk unions from Gujarat is distributed and utilised in the State itself and the same is not taken out of the State. Respondent no. 2 as such prays for dismissal of the petitions.

10. Affidavit-in-reply has been presented on behalf of Gujarat Co-operative Milk Marketing Federation Limited denying the allegations made in the petition. It is contended that Gujarat Co-operative Milk Marketing Federation Ltd. is India's largest apex co-operative organization engaged in marketing of milk and milk products under brand name 'Amul' and 'Sagar'. It is contended that the daily milk procurement of respondent and its affiliates is more than 90 lacs kg. per day from more than 15000 village milk cooperative societies and 2.9 million milk producer members. It is contended that respondent no. 5 undertakes the responsibility to market milk or milk products produced by the member unions on remunerative

price so that the member union can concentrate on procurement, processing and packaging. It is contended that marketing and distribution network of respondent no. 5 covers entire India having more than 3000 wholesale dealers and more than 5 lac retailers. It is contended that the major portion of revenue earned is passed on to the farmers which support them in their growth and development. It is pointed out by respondent no. 5 that all the affiliated milk unions collect milk and process it for respondent no. 5 and the allied products are sold in the market under the brand name 'Amul' and 'Sagar'. It is contended that respondents 2 to 5 have been in business in the State of Maharashtra since the year 2004. It is contended that at present respondents have set up their plants at Boisar, Shahapur, Virar, Nagpur etc. in Maharashtra. All necessary statutory permission for setting up milk processing units at various places have been duly obtained by respondent no. 5. It is pointed out that milk production in Maharashtra is 2.46 crore liters per day whereas the capacity of milk procurement of the societies, Taluka District Unions and Milk Federation is only to the extent of 11.9% i.e. 29.32 lac ltrs. per day. It is thus contended that milk procurement in the State by societies is very meager and the milk collection of respondents 2 to 5 has only benefited the farmers in the State of Maharashtra. It is contended that petitioners themselves who have been registered under the Maharashtra Co-operative Societies Act and operating in Sangamner taluka offered to supply thousands of liters of milk to respondents 4 and 5 since the year 2009 and therefore, now petitioners cannot allege that any illegal milk collection activity is being carried out by respondents 2 to 5 in the State. It is pointed out that since 2008 onwards,

petitioners themselves extended request to respondents 2 to 5 to purchase milk from them. The copies of relevant communication have been placed on record and necessary averments are also made in affidavit-in-reply. It thus transpires that petitioners themselves have supplied milk for years together to respondents 2 to 5 and that respondents 2 to 5 are in business of milk collection and processing and distribution of milk in the State of Maharashtra since years together. Respondent as such prays for dismissal of the petitions.

11. Learned counsel for petitioners contend that section 79A of the act empowers the State of Maharashtra to give directions in the public interest and, in the instant matter, since the activities of respondents 2 to 5 are detrimental to the co-operative movement in the State, necessary directions should be issued by the State Government. It is also contended that in view of section 159 of the act, the societies registered outside the State do not have entitlement to open branches or place of business in the State of Maharashtra without permission of the Registrar and, as such, they shall be restrained from conducting business activities in the State. Petitioners have placed reliance on the judgments in the matter of Chandrika Jha Vs. State of Bihar and others reported in AIR 1984 Supreme court 322(1) to contend that the State of Maharashtra cannot itself exercise the statutory function of the Registrar under the act or the rules. It is contended that only the authority invested with the powers under the act shall exercise those powers and it is not for the State Government to invoke the jurisdiction and the powers invested in the authority and to issue

directions. It is suggested that the order of vacation of stay has been issued at the instance of the Minister for co-operation or the Government in power and the order has not been passed by the Registrar on consideration of merits of the matter. Reliance is placed on the judgment in the matter of Mont Blank Co-operative Housing Society Ltd. and another vs. State of Maharashtra and others reported in 2007(3) ALL MR 32 to contend that the powers under section 79A of the act are exercisable by the Government for proper implementation of the principles of co-operation and other developmental programs initiated by the co-operative societies. They are concerned with the business of the affairs of the society being conducted in the manner detrimental to the interest of the members. The Government is also empowered under this section to modify such directions. (Sahebrao vs. The Collector, Aurangabad, 1983 Mh.L.J. 476). It is thus contended that it is appropriate for the State Government to intervene in the matter and issue directions prohibiting respondents from collecting milk in the State and conducting business operations which are detrimental to the co-operative movement in the State.

12. It is not a matter of doubt that respondents 2 to 5 are operating in the State of Maharashtra since years together. It is also a matter of fact that the co-operative network in the State is able to collect only partial milk produce and the bulk purchase is made by private players. It is also more than clear that the private traders who operate in the State and purchase milk and milk products do not pay proper price and ultimately, it is the milk producer who is adversely affected. It is also borne out from record that

respondents 2 to 5 herein are in the business of purchase, processing and distribution of milk in the State since years together and they are paying competitive price of the milk to the farmers. As has been stated above, collection network of the co-operative milk societies in the State falls short of the requirement and as such, the private players and the societies from outside the State like respondents 2 to 5 have stepped in. It has not been shown that the activities of respondents 2 to 5 are detrimental to the co-operative movement in the State nor the petitioners have been successful in pointing out that respondents 2 to 5 have collected milk from its member societies and in their area of operation. On the contrary, there is ample record produced before us to demonstrate that petitioners themselves from years together have supplied thousands of liters of milk every day and are still having business transaction with respondent societies. It is difficult to accept the contentions of petitioners that the activities of respondents 2 to 5 have adversely affected their interest. Since petitioners themselves have supplied milk to respondents 2 to 5, they do not have any entitlement to make complaint against them. At the same time, the fact remains that the prescription of law must be followed. The contention of petitioners that the agreement entered into by respondent no. 2 with respondent no. 1 is hit by section 20, cannot be accepted. Admittedly, no sanction or prior approval of the Registrar is secured before entering into partnership. Proviso to section 20 lays down that in case a society which has not taken any financial assistance from the Government in the form of share capital, loan or guarantee, prior approval of the Registrar for entering into partnership would not be required. It has not been demonstrated that respondent no. 1

has taken any financial assistance from the Government in the form of share capital, loan or guarantee. In this context, therefore, contention of petitioners that agreement entered into between respondents 1 and 2 is hit by section 20 of the act cannot be accepted. Other contention raised by petitioner that respondents 2 to 5 cannot be permitted to operate in the State since they have registered themselves as societies in the State of Gujarat is concerned, in view of section 159 of the act it is impermissible to respondents to open branch or place of business in the State of Maharashtra without permission of the Registrar. Respondent no. 5 in its affidavit has categorically stated that there are several processing plants operated by the said society in the State of Maharashtra. It is also not a matter of doubt that respondents 2 to 5 which are registered societies under Gujarat Co-operative Societies Act are collecting milk in the State of Maharashtra and having branches or place of business in the State of Maharashtra. Respondents 2 to 5 in order to continue to transact business in the State shall have to secure appropriate permission from the Registrar or may have to secure exemption from operation of relevant provisions under section 157 of the act, if the said section can be applied to them. We do not propose to record any opinion in that context. Learned counsel appearing for the concerned respondents have categorically stated that an appropriate application would be moved either to the Registrar or the State as required under the provisions of Maharashtra Co-operative Societies Act and respondents societies would continue their business operations in the State in observance of the procedure prescribed in the act and subject to securing appropriate permission or appropriate order either from the Registrar or the

State. Considering the fact that respondents 2 to 5 are operating in the State since years together and that they are collecting huge quantity of milk and that their activities cannot be said to be detrimental to the interest of the milk producers in the State, we do not propose to impose any restriction on respondents at present. Since it has also been brought to our notice that since, by virtue of interim prohibitory order issued by respondent no. 9 for 3 days, about forty lacs liters of milk belonging to milk producers in the State was wasted, it would be a matter of imagination as to what would be a damage that would accrue in the event of imposition of any restriction on the purchase of milk by these societies.

13. Respondents undertake to tender appropriate application either to the State Government or to the Registrar within contemplation of provisions of Maharashtra Co-operative Societies Act, within a period of six weeks from today. On tendering of application, respondent State or the Registrar with whom the application would be made, shall take appropriate decision in observance of procedure prescribed in law and after extending an opportunity of hearing to the concerned, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of such application. Till the final orders are passed and subject to such orders, respondent societies shall be permitted to continue to operate in the State.

14. In view of the order passed above, all the petitions stand disposed of.

15. Civil Application nos. 3729/2015, 3730/2015, 4429/2015, 3721/2015

for intervention and Civil Application nos. 3943/2015 and 3944/2015 for amendment are allowed and stand disposed of.

(V. K. JADHAV)
JUDGE

dyb

(R. M. BORDE)
JUDGE