

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4350 OF 2015

M/s. Dattatraya R. Pampatwar .. Petitioner
vs.
Shri Sai Trading Company & Ors. .. Respondents

Mr. Sachin Punde for the Petitioner.
Mr. Chetan Patil for Respondent No.1.
Mr. Anand Kulkarni for Respondent No.2.
Mr. A.R. Metkari, A.G.P. for Respondent Nos.3 and 4.

CORAM : M.S. SONAK, J.
DATE : 14 OCTOBER, 2015.

P.C. :

1) Challenge in this Petition is to the order dated 29.12.2014 made by Director of Marketing, State of Maharashtra, under the provisions of Section 52-B of the Maharashtra Agricultural produce Marketing (Development and Regulation) Act 1963 ('said Act'). Mr. Punde, the learned Counsel for the Petitioner, has submitted that the impugned order does not consider the various contentions raised by and on behalf of the Petitioner and in any case the consideration of various aspects is not at all reflected in the impugned order. Mr. Punde points out that by Resolution dated 27.05.2013, passed by the Solapur Agricultural Produce Marketing Committee ('the Committee'), the earlier resolutions of the Committee dated 05.11.2007 and 27.05.2009 were set aside. So also, the lease deed executed in favour of the respondent No.1 on 01.10.2008 was also set aside. Mr. Punde submitted that the earlier two resolutions were passed

without any notice to the affected parties, which includes the petitioner. In such circumstances, there was nothing wrong in the Committee passing the resolution dated 27.05.2013 and the same has been incorrectly set aside by the Director (Marketing).

2) Having heard the learned Counsel for the parties and perused the record, in my judgment, there was no warrant to interfere with the impugned order made by the Director (Marketing). In terms of the Resolution dated 05.11.2007, the Committee had resolved to make allotment in favour of the respondent No.1. The Resolution was duly implemented and in terms thereof, lease deed dated 01.10.2008 was entered into between the Committee and the respondent No.1. The term of the lease deed was renewed by the Committee vide Resolution dated 27.05.2009. This entire exercise was purported to be set aside by the Committee by passing the resolution dated 27.05.2013. Before passing such resolution dated 27.05.2013 or for that matter taking any action in pursuance thereof, there was no compliance with the principles of natural justice and fair play. Undoubtedly the resolution dated 27.05.2013 and the action purported to be taken in pursuance thereof would visit the respondent No.1 with serious civil consequences. Accordingly, in the facts and circumstances of the present case, it is necessary that there was compliance with principles of natural justice and fair play.

3) Reference is required to be made to yet another circumstance i.e. the petitioner having instituted a civil suit challenging the resolutions dated 05.11.2007 and 27.05.2009 and the lease deed dated 01.10.2008. The Civil Suit is pending and the petitioner's application for interim relief therein, has already been declined. Therefore, atleast *prima facie* Civil Court had not found any reasons to stay the operation, the resolution and the lease deed executed in pursuance thereof. No doubt, this might be the *prima facie* opinion of the Civil Court. Nevertheless in the situation of this kind no precipitative action could have been taken by the Committee without even minimum compliance with principles of natural justice and fair play.

4) The circumstances that the resolution dated 05.11.2007 and 27.05.2009 were allegedly passed without any notice to the petitioner, is hardly excuse for not complying with principles of natural justice before visiting the affected party with civil consequences. In any case, the petitioner has resorted remedies against the said resolutions. There is no error in the making of the impugned order. Accordingly, this Petition is dismissed. No order as to costs.

5) It is made clear that this Court has not examined the merits of the decision but upheld the decision of the Director (Marketing) on the

ground that decision making process which had resulted in the passing of resolution dated 27.05.2013 was in violation of the principles of natural justice and fair play. Accordingly, the fora where the merits of the action of the Committee are being examined shall be entitled to take appropriate decision in this matter in accordance with law and on its own merits without being influenced by any observation made either in the impugned order dated 29.12.2014, or by this Court while disposing by this Petition.

- 6) The Petition is disposed of accordingly.

(M.S. SONAK, J.)