IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4044 OF 2015

1] The Poona Merchant Chamber,]
Vyapar Bhawan,]
C-15, Market Yard,]
Gultekadi, Pune 411 037]
Through the President]
Shri Walchand Sancheti]
]
2] Shri Sanjay Bhagwandas Shingvi]
(Partner)]
M/s.Bhagwandas Dhanraj Shingvi]
Plot No.456]
Shri Chatrapati Shivaji Market Yard]
Pune 411 037]
]
3] Shri Santosh Manikchand Kothari]
(Partner)]
M/s. Santosh and Company]
Plot No.604,]
Shri Chatrapati Shivaji Market Yard]
Pune 411 037]
]
4] Shri Raju Rashid Bagwan]
Proprietor of Apna Market]
Plot No.118 Market Yard,]
Pune]
]
(All through Power of Attorney]
Shri Sanjay Bhagwandas Shingvi]
namely Petitioner No.2 above.]..... Petitioners.

Versus

1] State of Maharashtra]
]
(Summons to be served on the Learned]
Government Pleader appearing for]
State of Maharashtra under Order XXVII]

Rule 4, of the Code of Civil]
Procedure, 1908]
]

2] The Honourable Minister for Co-operation]
Marketing and Textile Department]
Government of Maharashtra,]
Hutatma Rajguru Chowk,]
Madam Kama Road,]
Mantralay Annex]
Mantralay, Mumbai 400 032]
]
(Summons to be served on the Learned]
Government Pleader appearing for]
State of Maharashtra under Order XXVII]
Rule 4, of the Code of Civil]
Procedure, 1908]
]

3] The Director of Marketing]
Maharashtra State,]
Pune]
]
(Summons to be served on the Learned]
Government Pleader appearing for]
State of Maharashtra under Order XXVII]
Rule 4, of the Code of Civil]
Procedure, 1908]
]

4] The Agricultural Produce Market Committee]
Market Yard, Gultekadi]
Pune 411 037]
]

5] District Deputy Registrar]
Co-operative Society]
Pune District (Rural)]
Pune]
]
(Summons to be served on the Learned]
Government Pleader appearing for]
State of Maharashtra under Order XXVII]
Rule 4, of the Code of Civil]
Procedure, 1908]..... Respondents.

WITH
WRIT PETITION NO.3782 OF 2015

Sureshkumar Roshanlal Singhal]
Age 42 years, Occupation Business]
Residing at B-203, Unnati Society,]
Opposite VIT Hostel, Kondhwa (Budruk)]
Ganadham-Katraj Road Pune 411048]..... Petitioner

Versus

1] The Regional Agricultural Produce]
Marketing Committee,]
Market Yard, Gultekdi Pune 411037]

2] The Director of Marketing]
State of Maharashtra,]
3rd floor, New Central Building,]
Ambedkar Marg, Pune 411 001]

3] The District Deputy Registrar]
Co-operative Societies, Pune District]
(Rural) Pune]

4] State of Maharashtra]
Through the Chief Secretary,]
Department of Co-operation,]
Marketing & Textile,]
Mantralaya, Mumbai 400 032].....Respondents

WITH
WRIT PETITION NO.4592 OF 2015

Sukhraj Kisnaji Shah]
Proprietor of "Vinod Trading Company"]
Age 63 years, Occupation Business]
Residing at K/10, Ankur Park-I Society,]
Mukundnagar Pune 411037]..... Petitioner

Versus

1] The Regional Agricultural]
Produce Marketing Committee,]
Market Yard, Gultekdi Pune 411037]

through its Chairman and Secretary]

2] The Director of Marketing]
State of Maharashtra,]
3rd floor, New Central Building,]
Ambedkar Marg, Pune 411 001]

3] The District Deputy Registrar]
Co-operative Societies, Pune District]
(Rural) Pune]

4] State of Maharashtra]
through the Chief Secretary,]
Department of Co-operation,]
Marketing & Textile,]
Mantralaya, Mumbai 400 032].....Respondents

WITH
WRIT PETITION STAMP NO.10243 OF 2015

Balaji Traders]
through its sole Proprietor,]
Mr. Jasraj Kesuram Choudhari]
Age 46 years Occupation Business]
having address at 580/581,]
Market Yard, Pune 400 037]..... Petitioner.

Versus

1] The Regional Agricultural]
Produce Marketing Committee,]
Market Yard, Gultekadi Pune 411037]
through the Hon'ble Chairman(Sabhapati]
/Secretary, Administrative Board,]
Shri Chhatrapti Shivaji Market Yard,]
Gultekdi Market Yard, Pune 411037]

2] The Director of Marketing]
Central Administrative Building]
Maharashtra State, Pune 400 101]

3] The District Deputy Registrar]
Co-operative Societies, (Rural) Pune]
Sugar Complex, Shivaji Nagar, Pune]

4] Hon'ble Minister for Co-operation]
State of Maharashtra]

5] State of Maharashtra].....Respondents

WITH
WRIT PETITION STAMP NO.10879 OF 2015

M/s. Balaji Bazar]
through its sole Proprietor,]
Mr. Jasraj Kesuram Chaudhari]
Age 46 years Occupation Business]
having address at 537,]
Market Yard, Gultekdi Pune 400 037]..... Petitioner.

Versus

1] The Regional Agricultural]
Produce Marketing Committee,]
Market Yard, Gultekadi Pune 411037]
through the Hon'ble Chairman(Sabhapati]
/Secretary, Administrative Board,]
Shri Chhatrapti Shivaji Market Yard,]
Gultekdi Market Yard, Pune 411037]

2] The Director of Marketing]
Central Administrative Building]
Maharashtra State, Pune 400 101]

3] The District Deputy Registrar]
Co-operative Societies, (Rural) Pune]
Sugar Complex, Shivaji Nagar, Pune]

4] Hon'ble Minister for Co-operation]
State of Maharashtra]

5] State of Maharashtra]

6] The President]
The Poona Merchants Chamber,]
Vyapar Bhavan, C-50, Market Yard,]
Gultekdi, Pune 411 037].....Respondents

WITH
WRIT PETITION STAMP NO.10882 OF 2015

Jaikishan Enterprises]
through its sole Proprietor,]
Mr. Naqul Kanyomal Jamba]
Age 47 years Occupation Business]
having address at 557 ,]
Market Yard, Gultekdi Pune 400 037]..... Petitioner.

Versus

1] The Regional Agricultural]
Produce Marketing Committee,]
Market Yard, Gultekadi Pune 411037]
through the Hon'ble Chairman(Sabhapati]
/Secretary, Administrative Board,]
Shri Chhatrapti Shivaji Market Yard,]
Gultekdi Market Yard, Pune 411037]

2] The Director of Marketing]
Central Administrative Building]
Maharashtra State, Pune 400 101]

3] The District Deputy Registrar]
Co-operative Societies, (Rural) Pune]
Sugar Complex, Shivaji Nagar, Pune]

4] Hon'ble Minister for Co-operation]
State of Maharashtra]

5] State of Maharashtra]

6] The President]
The Poona Merchants Chamber,]
Vyapar Bhavan, C-50, Market Yard,]
Gultekdi, Pune 411 037].....Respondents

WITH
WRIT PETITION STAMP NO.11170 OF 2015

1] Balaji Grain House]
through its Proprietor,]
Mr. Motiram Kesuram Chaudhari]

Age 63 years Occupation Business]
having address at Shop 3 & 4]
Ware House Line, Market Yard]
Pune 400 037]

2] Balaji Trading Company]
Through its proprietor,]
Mr. Motiram Kesuram Chaudhari]
Age 63 years Occupation Business]
having address at Shop 512/3]
Market Yard, Pune 400 037]

3] Jayashree Sales Corporation]
through its Proprietor]
Mr. Bhawarlal Mularamji Chaudhari]
Age 52 years, Occupation Business]
having address at Shop No.586]
Market Yard, Pune 400 037]

4] Balaji Rice Centre]
through its Partner]
Mr. Bhawararam Khemaram Chaudhari]
Age 36 years, Occupation Business]
having address at Shop No.466]
Market Yard, Pune 400 037]

5] Balaji and Company]
Through its Proprietor]
Mr. Hasraj Kesuram Chaudhari]
Age 44 years Occupation Business]
having address at Shop No.453]
Market Yard, Pune 400 037]

6] Mamta Trading Company]
through its Proprietor]
Mr. Jesraj Kesuram Chaudhari]
Age 45 years Occupation Business]
having address at Shop No.634]
Market Yard, Pune 400 037].....Petitioners

Versus

1] The Regional Agricultural]
Produce Marketing Committee,]

Market Yard, Pune 411037]
through the Hon'ble Chairman(Sabhapati]
/Secretary, Administrative Board,]
Shri Chhatrapti Shivaji Market Yard,]
Gultekadi Market Yard, Pune 411037]

2] The Director of Marketing]
Central Administrative Building]
Maharashtra State, Pune 400 101]

3] The District Deputy Registrar]
Co-operative Societies, (Rural) Pune]
Sugar Complex, Shivaji Nagar, Pune]

4] Hon'ble Minister for Co-operation]
State of Maharashtra]

5] State of Maharashtra].....Respondents

WITH
WRIT PETITION STAMP NO.11194 OF 2015

M/s. Gala Traders]
Shop Premises 329A,]
Shri Chatrapati Shivaji Market Yard,]
Pune 400 037,]
Ms.Priti Manoj Gala, Proprietor]
through Power of Attorney holder]
Mr. Kirti Shah]..... Petitioner

Versus

1] Regional Agricultural Produce]
Market Committee,]
Shri Chatrapati Shivaji Market Yard,]
(Gultekdi), Pune 411037]
through its Secretary and Chairman]

2] The Director of Marketing]
3rd floor, New Central Building,]
Pune 411 001]

3] District Deputy Registrar]
Co-operative, Pune]

4] The Secretary]
Department of Marketing]
Ministry of Co-operation, Agriculture]
Markeing and Textile,]
Government of Maharashtra]
Sachiwalay, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11195 OF 2015

M/s. Pune Trading]
Shop Premises 544,]
Shri Chatrapati Shivaji Market Yard,]
Pune 411037, through its proprietor]
Mr. Phavulal Savaji Chaudhari]..... Petitioner

Versus

1] Regional Agricultural Produce]
Market Committee,]
Shri Chatrapati Shivaji Market Yard,]
(Gultekdi), Pune 411037]
through its Secretary and Chairman]

2] The Director of Marketing]
3rd floor, New Central Building,]
Pune 411 001]

3] District Deputy Registrar]
Co-operative, Pune]

4] The Secretary]
Department of Marketing]
Ministry of Co-operation, Agriculture]
Markeing and Textile,]
Government of Maharashtra]
Sachiwalay, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11200 OF 2015

M/s. Hans Enterprises]
Shop Premises 315,]

Shri Chatrapati Shivaji Market Yard,]
Pune 411037, through its Proprietor]
Mr. Kirti Hanraj Shah/Gada]..... Petitioner

Versus

1] Regional Agricultural Produce]
Market Committee,]
Shri Chatrapati Shivaji Market Yard,]
(Gultekdi), Pune 411037]
through its Secretary and Chairman]

2] The Director, Marketing]
3rd floor, New Central Building,]
Pune 411 001]

3] District Deputy Registrar]
Co-operative, Pune]

4] The Secretary]
Department of Marketing]
Ministry of Co-operation, Agriculture]
Marketing and Textile,]
Government of Maharashtra]
Sachiwalay, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11729 OF 2015

M/s Bogawat & Sons]
A Partnership Firm, Having its Registered]
Place at 638, Market Yard,]
Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr.Santosh Kanayalal Bogawat]
Age 40, Occupation Business,]
having address at flat No.203,]
Hide Park, E Tower, Gultekadi]
Pune 37]..... Petitioner.

Versus

1] The State of Maharashtra]
Through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11730 OF 2015

M/s Shashi Enterprises]
A proprietary firm having its registered]
place at 335, Market Yard,]
Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr.Shashikumar Atmaparakash Gupta]
Age 51, Occupation Business,]

having address at B-504, Hight Park]
Society, Market Yard, Pune 411037]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11731 OF 2015

M/s Bhattad Agency]
A Proprietary firm having its registered]
place at 430, Market Yard,]

Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr.Subhashchandra Shankarlal Bhattad]
Age 68, Occupation Business,]
having address at 270, Shukrawar Peth]
Pune 411002]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11732 OF 2015

M/s Chacha Enterprises]
A Proprietary firm having its registered]
place at 287, Market Yard,]
Gultekadi, Pune]
Duly represented by its]
authorised signatory]
Mr.Anil Charandas Agarwal]
Age 49, Occupation Business,]
having address at 287, Market Yard,]
Gultekadi, Pune]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11733 OF 2015

M/s M S & Company]
A partnership firm having its registered]
place at Gala No.329, Gate No.2,]
Market Yard, Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr.Sachin Suresh Gadiya]
Age 37, Occupation Business,]
having address at Flat No.10,]
Vijay Apartment, Opp Mira Society]
Shankar Shet Raod, Pune]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]

Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11734 OF 2015

M/s Osiya Trading Company]
A Proprietary firm having its registered]
place at 513, Side-patti, Market Yard,]
Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr. Ramesh Kumar Jain]
Age 46, Occupation Business,]
having address at flat No.B-44,]
Padmavati Nagar Society, 5th floor,]
Sambhajinagar, Dhankawadi,]
Pune 411037]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11735 OF 2015

M/s Goyal Trading Company]
A Proprietary firm having its registered]
place at 171, Market Yard,]
Gultekadi, Pune]
Duly represented by its]
authorised signatory]
Mr. Ashok Motiram Agarwal]
Age 48, Occupation Business,]
having address at 101, Gagan Galaxy,]
Bibavewadi-Kondhava Road,]
Pune 411037]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11736 OF 2015

M/s Madhuram Sales,]
A partnership firm having its registered]
place at 210, Market Yard,]
Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr.Vishu Bhagwatprasad Goyal]
Age 45, Occupation Business,]
having address at 103, Om Heritage]
Opp Water Tank, Vadgaon, Sheri]
Nagar Road, Pune]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]

of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11737 OF 2015

M/s Kantilal Purushattam & Company]
A partnership firm having its registered]
place at 181, Market Yard,]
Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr.Purshottam Parpya Thakkar]
Age 55, Occupation Business,]
having address at 604, Esha Emerald,]
C-Wing, Market Yard Pune 411037]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11738 OF 2015

M/s Nakoda Marketing]
A partnership firm having its registered]
place at Swami Samarth, Plot No.673,]
Side-Patti, Market Yard,]
Gultekadi, Pune]

Duly represented by Partner]
Mr.Dinesh D Mehta]
Age Adult, Occupation Business,]
having address at Plot No.673,]
Market Yard, Gultekadi Pune 411037]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11739 OF 2015

M/s Delhi Trading Company]
A Proprietary firm having its registered]
place at 161, Market Yard,]
Gultekadi, Pune]
Duly represented by its]
authorised signatory]
Mr. Harish Ramphal Agarwal]
Age Adult, Occupation Business,]
having address at 161, Market Yard]
Gultekadi, Pune 411037]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11740 OF 2015

M/s Anand Stores]
A Proprietary firm having its registered]
place at 514, Market Yard,]
Gultekadi, Pune]
Duly represented by its]
authorised signatory]
Mr. Jayprakash Mahavirchand Mehta]
represented by Power of Attorney holder]
Mr. Ramesh Chandmal Mehta]
Age Adult, Occupation Business,]
having address at 1/3, Krutarth Society]
Pune Satara Road, Near City Pride,]
Theater, Pune 411037]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]

Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11741 OF 2015

M/s Narendra H. Thakkar & Sons]
A Proprietary firm having its registered]
place at 357, Market Yard,]
Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr.Surendra Narendra Thakkar]
Age Adult, Occupation Business,]
having address at 357, Market Yard,]
Gultekadi Pune 37]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11742 OF 2015

M/s Nakoda Marketing]
A partnership firm having its registered]
place at Swami Samarth, Plot No.673,]
Side-Patti, Market Yard,]
Gultekadi, Pune 411 037]
Duly represented by partner]
Mr.Dinesh D Mehta]
Age Adult, Occupation Business,]
having address at Plot No.673,]
Market Yard, Gultekadi Pune]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.11743 OF 2015

M/s. Shradha Enterprises]
A Proprietary firm having its registered]
place at Gate No.2, Shop No.321,]
Market Yard, Gultekadi, Pune]
Duly represented by its]
authorised signatory]
Mr. Deepak Dindayal Khatri]
Age 35, Occupation Business,]
having address at Sr, No.66/1/1/2,]
Comfort Villa, Row House No.4,]
Kondhava Budruk, Pune 411048]..... Petitioner.

Versus

1] The State of Maharashtra]
through the Department / Ministry]
of Co-operation, Marketing & Textile,]

Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

WITH
WRIT PETITION STAMP NO.13109 OF 2015

M/s Balaji Sales]
A Proprietary firm having its registered]
place at 578, Market Yard,]
Gultekadi, Pune 37]
Duly represented by its]
authorised signatory]
Mr. Kishore Vishnupant Gunbharit]
Age 55, Occupation Business,]
having address at flat No.13, 3rd floor,]
Arihant Garden, 559/B/2, Mharshinagar,]
Pune 411037]..... Petitioner.

Versus

1] State of Maharashtra]
Through the Department / Ministry]
of Co-operation, Marketing & Textile,]
Mantralaya, Mumbai]

2] The Principal Secretary, Marketing]
State of Maharashtra]
having office at Mantralaya, Mumbai]

3] The Director of Marketing]
State of Maharashtra, having office at]
Central Administrative Building,]
Near Sasoon Hospital, Pune]

4] The District Deputy Registrar]
Co-operative Societies, Pune,]
Having office at Sakhar Sankul, Pune]

5] Regional Agricultural Produce Marketing]
Committee, Market Yard, Pune]
Through the Hon'ble Chairman/Secretary]
Administrator Board, having address at]
Shri Chatrapati Shivaji Market Yard,]
Gultekadi, Market Yard, Pune 411037]

6] The Pune Merchants Chamber,]
Vyapar Bhavan, C-50,]
Market Yard, Pune 411 037]

7] The Hon'ble Minister,]
Ministry of Co-operation, Marketing,]
& Textile, Mantralaya, Mumbai].....Respondents

Mr. A V Anturkar, Senior Advocate i/by Mr. S B Deshmukh for the Petitioners in Writ Petition No.4044 of 2015.

Mr. R D Soni i/by Ram & Co. for the original Petitioners in Writ Petition Stamp Nos.10243/2015, 10879/2015 and 10882/2015.

Mr. A A Kumbhakoni, Senior Advocate i/by Kuldeep U Nikam for the Petitioner in Writ Petition Stamp No.11170/2015.

Mr. Abhijit D Kulkarni i/by M/s. DD & Abhijit Associates for the Petitioners in Writ Petition Stamp Nos.11730/2015 to 11743/2015 and 13109/2015.

Mr. Pratap Sampat with Mr. Vilas Jadhav for the Petitioners in Writ Petition Stamp Nos.11194/2015, 11195/2015, 11200/2015.

Mr. Jayesh B Kocheta with Mr. C R Bhutada for the Petitioners in Writ Petition No.3782/2015 and 4592 of 2015.

Mr. M L Patil for the Respondent/Agricultural Produce Marketing Committee in all the Writ Petitions.

Mr. S N Chandrachood for the Intervenors in Writ Petition Stamp No.10243/2015.

Mr. G S Godbole with Mr. Drupad S Patil for the intervenors in Writ Petition No.4044 of 2015.

Mr. A B Vagyani, Government Pleader with Mr. Vishal Thadani, AGP for the State in all the Writ Petitions.

CORAM : R. M. SAVANT, J.
Reserved on : 07th May 2015
Pronounced on : 19th May 2015.

COMMON JUDGMENT

1 The above Petitions involve a common challenge and are therefore heard together.

2 Rule in all the above Petitions, with the consent of the learned counsel for the parties made returnable forthwith and heard.

3 The writ jurisdiction of this Court is invoked against the order dated 27/03/2015 passed by the Appellate Authority i.e. the Hon'ble Minister for Co-operation, Marketing and Textile Department, Government of Maharashtra by which order the Appeal filed by the Petitioner No.1 on behalf of its members came to be dismissed and resultantly the order dated 22/12/2014 passed by the Respondent – The Agricultural Produce Market Committee cancelling the licenses of the Petitioners came to be confirmed. The Petitioners are also challenging the order dated 04/09/2014 passed by the Director of Marketing.

4 The above Petitions are a group of Petitions filed by the traders operating in Shri Chatrapati Shivaji Market Yard popularly known as Gultekadi Market Yard challenging the said order dated 27/03/2015 passed by the Appellate Authority as also the order dated 04/09/2014 passed by the Director of Marketing. The learned counsel appearing for the Petitioners in the above group of Petitions agree to treat the above Writ Petition No.4044 of 2015 as the lead matter and that the lead submissions would be made by the learned Senior Counsel Shri A V Anturkar appearing for the Petitioners in the above Writ Petition No.4044 of 2015.

5 The factual matrix involved in the above Petition No.4044 of 2015 can be stated thus :-

In so far as the above Writ Petition No.4044 of 2015 is concerned, the Petitioner No.1 is an Association of Merchants who are carrying on the business in the City of Pune including Shri Chatrapati Shivaji Market Yard. The Petitioner Nos.2 to 4 are its members. The Petitioner No.2 has been allotted Plot No.456 by the Respondent No.4 – The Agricultural Produce Market Committee (for short hereinafter referred to as "the Market Committee") in Shri Chatrapati Shivaji Market Yard. The Petitioner No.2 has been issued a license by the Respondent No.4 for carrying out the business in the said Market Yard. The Petitioner No.3 who is also a partnership firm has been allotted Plot No. 604 and has also been issued license in the prescribed format. The Petitioner No.4 has been allotted Plot No.118 in the said Market Yard and has similarly been issued a license. It appears that the original licensee i.e. Rajendra Kanhaiyalal Oza and Lalit Mohanlal Dangi have granted Leave and License to one Raju Rashid Bagwan who is the proprietor of one Apna Market wherein a retail trade is being carried out. The aforesaid plots have been allotted to the Petitioner Nos.2 to 4 by the Market Committee on lease basis. In terms of the Lease Deed the Petitioner Nos.2 to 4 are required to carry out only wholesale trade in agricultural produce in the said plots which are in the Market Yard. However, it seems that the Petitioners are utilizing the plots on which they have put up the structures for carrying out the retail trade

in the main structure and are carrying out the wholesale trade in the side margins of the said plots.

In view of the averments made in Paragraph 1 of the above Petition, the Petitioner No.1 which is an Association has unequivocally accepted the position that the members of the Petitioner No.1 on whose behalf the above Petition has been filed have been carrying on retail trade. The relevant excerpt of the said Paragraph 1 is reproduced herein under for the sake of ready reference :-

> "The said Petitioner No.1, Pune Merchant Chamber, had filed the said Appeal in the representative capacity for and on behalf of all the persons who are the members of the Petitioner No.1 and who have been carrying on the business, of the retail sale in the market area/market yard area of the Respondent Agricultural Produce Market Committee."

The Petitioners in the other Petitions also do not dispute the fact that they are carrying on retail trade.

6 The Director of Marketing who is primarily conferred with the powers of regulating the business in the Market Area and the Market Yard issued an order dated 04/09/2014 by invoking provisions of Section 40(e) of the Maharashtra Agricultural Produce Market (Development And Regulation) Act, 1963 (herein after referred to as "the said Act") . The said order is

founded on the fact that many of the Agricultural Produce Market Committees in the State have granted licenses to the traders for retail sale though the Market Committee are not entitled to frame bye-laws for retail sale. The said order states that the said matter being serious, the same warranted directions to be issued to all the Market Committees in the State. The Director of Marketing has accordingly issued directions, and as indicated above, in exercise of the powers conferred by Section 40(e) of the said Act by the said directions the Chairman/Secretary/Administrator/or Board of Administrator of the Market Committees have been directed to see to it that there is a strict compliance of Sections 6 and 7 of the said Act. The order goes on to state that the traders who have been issued licenses for retail sale, such licenses should be cancelled immediately, and report submitted to the Director by the Market Committees within 15 days. If the licensee fails to comply with the order, then action be taken under Section 49 of the said Act. It is further directed that the District Deputy Registrar, Co-operative Societies is personally responsible for the implementation of the said directions.

The District Deputy Registrar of Co-operative Societies, Pune (Rural) also by his order dated 16/10/2014 issued similar directions to the Market Committee.

7 In terms of the said directions of the Director of Marketing, a show

cause notice dated 31/10/2014 came to be issued by the Respondent No.4 Market Committee to the traders who are carrying out retail trade. One such notice issued to the Petitioner No.2 is annexed to the above Petition at Exhibit-H. It is mentioned in the said notice that with reference to the order dated 04/09/2014 you are informed that Plot No.456 allotted to you by the Market Committee has been allotted to you on lease basis for carrying out wholesale trade. That you have been carrying on business in agricultural produce and allied products (grocery) for which the Market Committee has issued license for the year 2014-15 under bye-law 58(A), Sub-Rules (3) and (9) as a retailer. That under the said Act and especially Section 6(2) thereof the Market Committee cannot issue license for retail trade and that the Market Committee can only make rules for wholesale trade. Therefore all those traders who have been granted licenses as per bye-law 58(A), Sub-Rules (3) and (9) for retail trade in the joggery and grocery market are directed to be cancelled by the Director of Marketing and that only wholesale trade can be carried out on the plots in question. It is further directed that the licenses for retail sale be immediately cancelled. It is therefore directed that as per the directions of the Director of Marketing only the wholesale business is necessary to be carried out and be accordingly carried out. Hence the noticee was called upon to show cause as to why the license issued to it under bye-law 58(A), Sub-Rules (3) and (9) should not be cancelled. It was further observed that if the noticee fails to show cause and if the reply is not satisfactory, appropriate action as per law

would be taken.

8 The Petitioner No.2 replied to the said notice. The Petitioner No.2 stated that the license has been granted under bye-law 58(A) Sub-Rules (3) and (9). In the said reply a reference was made to a meeting held on 02/11/2006 under the Chairmanship of then the Hon'ble Minister for Co-operation, Marketing and Textile Department wherein the Administrator of the Market Committee and the Director of Marketing were present, in which meeting it was decided to carry out suitable amendment to the bye-laws so as to provide for retail sale. Accordingly a proposal to amend the then existing bye-law 46(10) was sent to the District Registrar which was approved by the District Deputy Registrar on 02/01/2007. It was therefore contended that the license issued to the Petitioner No.2 was pursuant to the said bye-law. It was further stated that the Market Committee has adopted the new bye-laws wherein the old bye-law 46(10) is now substituted by bye-law 58(A)(3). The Petitioner No.2 further stated in his reply that in the Principal Markets as also the Subsidiary Market along with the sale of agricultural produce, the sale of allied products also goes on like retail sale of grocery, hotels, restaurant, banks, fertilizers and medicines. It was also stated in the said reply that in view of the retail sale, no loss is caused to the Market Committee. It was lastly stated in the said reply that the show cause notice is illegal and causes injustice to the Petitioner No.2.

9 The Petitioner No.2 was heard by the Respondent No.4 Market Committee through its Secretary and Chairman and the Respondent No.4 by its order dated 22/12/2014 has confirmed the show cause notice. The Respondent No.4 referred to the directions issued by the Director of Marketing for cancellation of the licenses issued by the Respondent No.4 for retail sale having recourse to bye-law 58(A) Sub-Rules (3) and (9) of the said Act. It was further stated in the said order that the Petitioner may carry out only the wholesale trade on the plot of land in question. It was lastly stated in the said order that the reply given by the Petitioner was found to be unsatisfactory and therefore has been rejected. The said order therefore cancels the license issued to the Petitioner for retail sale from the date of the said order.

10 The Petitioners aggrieved by the said order dated 22/12/2014 passed by the Respondent No.4 Market Committee filed an Appeal before the State Government. The said Appeal, as indicated above, has been dismissed by the Appellate Authority i.e. the Hon'ble Minister for Co-operation, Marketing and Textile by the impugned order dated 27/03/2015. By the said order the Appellate Authority rejected the case of the Petitioners that they are entitled to carry on retail trade in the Market Yard. The order passed by the Appellate Authority refers to the order dated 04/09/2014 passed by the Director of Marketing as also the order dated 22/12/2014 by which the Respondent No.4

Market Committee has cancelled the licenses of the 83 traders who were carrying on retail trade. The order goes on to observe that the licenses granted under bye-law 58(A) was in violation of the provisions of the said Act. The order also refers to the judgment of the Division Bench of this Court in Writ Petition No.5586 of 2000 dated 29/11/2000 wherein the Division Bench has dis-approved the carrying out of a retail trade in the Market Yard. The order further goes on to observe that since the directions have been issued to cancel the licenses issued by the Respondent No.4 for retail trade on the ground that the same are in violation of the provisions of the said Act that the matter would have to be considered on the said basis. The order lastly goes on to observe that since the order dated 22/12/2014 passed by the Respondent No.4 Market Committee is based on the order dated 04/09/2014 passed by the Director of Marketing there is no warrant to interfere with the order passed by the Respondent No.4 Market Committee and therefore the Appeal deserves to be dismissed. As indicated above it is the said order dated 27/03/2015 passed by the Appellate Authority which is taken exception to by way of the above Petition.

11 On behalf of the State and the Respondent No.4 Affidavits in Reply have been filed dealing with the claims and contentions raised in the above Petition. In so far as the State is concerned, Shri Ramdas S Atak, Deputy Secretary to the Government, Co-operation, Marketing and Textiles has filed

the Affidavit. In the said Affidavit the directions as contained in the order dated 04/09/2014 issued by the Director of Marketing are sought to be justified. It has been stated that need to issue directions had arisen in view of the fact that it was noticed that in the Market Yard many Market Committees have issued licenses for carrying out retail trade which was a serious matter and was against the said Act and hence it was necessary to issue directions to all the Market Committees in the State to stop the said retail trade. The authority of the Secretary and Chairman of the Market Committee to pass the order dated 22/12/2014 cancelling the licenses by having recourse to Section 8(1) of the said Act was justified. It was stated that the bye-law on which the Petitioners seek to place their reliance to justify carrying on of retail trade, the said bye-law being not approved by the Director, could not be relied upon as under the provisions of the said Act only such of the bye-laws which are approved by the Director can be enforced. It is stated that the bye-law in any event cannot be enforced in a manner to defeat the provisions of the Act. In the said Affidavit a reference to the judgment of the Division Bench of this Court in Writ Petition No.5586 of 2000 has also been made.

12 In so far as the Affidavit filed on behalf of the Respondent No.4 i.e. the Market Committee is concerned, the same has been filed by Shri Dhananjay Prabhakar Doiphode, the Secretary of the Respondent No.4. It is stated in the said Affidavit that the Respondent No.4 which is a Regional Agricultural

Produce Market Committee (RAPMC) is constituted under the provisions of the said Act. It has been stated in the said Affidavit that the "Market Area" in so far as the Respondent No.4 is concerned consists of Pune Municipal Corporation Limits, Pimpri Chinchwad Municipal Corporation Limits, Pune Cantonment Board Limits, Khadki Cantonment Board Limits and Dehu Road Cantonment Board Limits. It has been stated in the said Affidavit that the "Principal Market" for the purposes of Regulation of the notified Agricultural Produce as per the provisions of the said Act is at Gultekadi, Pune and is known as Shri Chhatrapati Shivaji Market Yard. The Market Yard is constructed over an area of about 170 Acres of Land. It has been stated that there are various types of markets depending on the nature of the wholesale business carried on in the Market Yard, one of them is jaggery and grocery market wherein the Petitioners are situated. It has been stated that there are 716 plots in the said market, and there are certain places/plots/shops which are earmarked in the lay out of the Market Yard for the business ancillary to agriculture. It has been stated that the said Market Yard has been established for the purpose of regulation of the marketing of the agricultural produce in which only wholesale trade therein is permissible. It has been stated that the plots have been allotted to the wholesale traders under registered Lease Deeds and one of the conditions of the Lease Deed is that all the lessees have agreed to use the plot only for carrying out wholesale trade of the notified agricultural produce. It has further been stated that every lessee has agreed that if the plot was used for any other

business than the wholesale trade in jaggery and grocery which is permissible and if the business for which the license is granted is found to be stopped, then the Market Committee will be entitled to take over the possession of the plot along with the construction thereon. The background to the reference made in the licenses to bye-law 58(A) Sub-Rules (3) and (9) has been stated. In the said context it has been stated that prior to 2006 some traders to whom wholesale licenses were issued were doing retail business in grocery, cosmetics etc, this was not permissible under the bye-laws. Since the retail business activities are not permissible in the Market Yard, the then Administrator refused to allow retail trade in grocery etc. which resulted in a meeting being held on 02/11/2006 under the Chairmanship of the then Hon'ble Minister for Co-operation, Marketing and Textiles in which meeting apart from the officers concerned, two local MLA's were also present. In the said meeting it was suggested that the bye-laws of the Respondent No.4 be amended so as to provide for retail trade. However, pursuant to the said meeting a proposal for amendment of the bye-laws was not submitted. However, under bye-law 46(10) which is presently bye-law 58(10), the Market Committee has power to make sub-rules with prior consent of the Director to permit in exceptional circumstances the sale of commodities allied to agricultural produce and related items. The Market Committee has accordingly made sub-rules to permit the sale of the related or allied items. However, the approval to the said sub-rules has been obtained from the District Deputy Registrar, Co-operative

Societies, Pune and not from the Director of Marketing. It is stated that the commodities allied to agricultural produce and related items would include seeds, fertilizers, pesticides, equipments required for agriculture etc but would not include retail trade. It is therefore stated that even under the sub-rules as framed under bye-law 46(10), the retail trade as carried out by the Petitioners is not permissible. It is stated that 83 traders out of 512 in the jaggery and grocery business to whom such licenses were issued are carrying on retail trade in various items inclusive of cosmetics. It is stated that the Petitioners have pertinently not mentioned the items in which they are carrying on retail trade. It is stated that carrying out of the retail trade apart from not being permissible has the effect of putting immense pressure on the infrastructure facilities in the Market Yard. The order dated 04/09/2014 passed by the Director of Marketing is referred to in the said Affidavit, and the cause for issuing the said order. It is stated that the said order dated 04/09/2014 issued by the Director of Marketing was placed before the Board of Administrators of the Market Committee in the meeting dated 20/10/2014 in which meeting it was resolved to issue show cause notices to the traders and call for their reply within 15 days. It is in terms of the said resolution passed on 20/10/2014 that a show cause notice came to be issued to the traders on 31/10/2014 calling upon them to show cause as to why licenses issued to them should not be cancelled. It is further stated that the action of cancellation of the licenses by the order dated 22/12/2014 passed by the Secretary and the Chairman to the 83 traders

was placed before the Board of Administrators in its meeting dated 29/12/2014 which was approved by the Board of Administrators. A reference has been made to the Appellate Proceedings filed by the Petitioners before the State Government resulting in the Appeal being dismissed by the impugned order dated 27/03/2015. It is stated that the licenses issued to the said 83 traders were valid up to 31/03/2015 and in view of the orders passed by the Respondent No.4 and the Appellate Authority, the said 83 traders have no valid licenses as of date to carry on the business in the market yard. It is stated that since the traders did not stop the retail business, that the Respondent No.4 had to resort to put up a lock on the premises so as to prevent retail trade. It is stated that the provisions of the said Act and the Rules thereunder do not permit retail business as the one carried out by the traders in the Market Yard. It is stated that permitting the said retail business activities has been a mistake and the RAPMC is entitled to correct the same. The filing of the suit by some of the Petitioners has been referred to and it is stated that the interim application filed in the suit has been rejected.

13 ***SUBMISSIONS OF SHRI A V ANTURKAR, THE LEARNED SENIOR COUNSEL APPEARING ON BEHALF OF THE PETITIONERS IN WP NO.4044 OF 2015.***

[A] That the order dated 22/12/2014 has been passed by the Secretary and the Chairman of the Respondent No.4 without authority of law as under Section 8(1) of the said Act the power is

only with the Market Committee to cancel the license;

[B] That the order dated 04/09/2014 passed by the Director of Marketing under Section 40(e) of the said Act is without hearing the Petitioners and therefore there is a breach of the principles of natural justice.

[C] That the hearing before the Respondent No.4 Market Committee was only an empty formality in view of the directions issued by the Director of Marketing by his order dated 04/09/2014;

[D] That there is no prohibition to carry out retail business under the said Act and the Petitioners are not required to obtain any license under the said Act in view of Section 6(2). The learned counsel sought to place reliance on the judgment of a Division Bench of this Court in the case of ***Solapur Bakar Khatik Association, Solapur, Through its President M.S.Shahaji v/s. Solapur Agricultural Produce Marketing Committee, Solapur through its Chairman and another***[1]

The learned Senior Counsel sought to interpret Section 6 of the said Act to mean that exception to Section 6(1) is in respect of

1 ***1978 Mah.L.J.837***

three categories mentioned in sub-section (2) of Section 6. It was the submission of the learned Senior Counsel that the Petitioners fall in the 2nd category viz. sales to by a person where he himself sells to another who buys for his personal consumption and therefore stood exempted from obtaining a license.

[E] That the judgment dated 29/11/2000 of the Division Bench of this Court in ***Writ Petition No.5586 of 2000*** in the matter of ***Mafco Market Vypari Association, Turbhe, Navi Mumbai and anr v/s. The State of Maharashtra & ors.*** has no application as the Division Bench in the said case has not addressed the issue as to whether retail trade is permissible in the Market Yard.

[F] That assuming the Market Committee has approved or ratified the said decision, the Board of Administrators which is exercising the powers of the Market Committee cannot exercise any power after the expiry of the period of one year in view of the fact that the Administrator or the Board of Administrators can only be for one year.

14 The learned counsel appearing in the other Writ Petitions supplemented the submissions made by Shri A V Anturkar, the learned Senior

Counsel for the Petitioners in Writ Petition No.4044 of 2015.

15 In so far as the learned Senior Counsel appearing for the Petitioner in Writ Petition Stamp No.11170 of 2015 Shri A A Kumbhakoni is concerned, he would submit that in terms of Section 8(2) of the said Act the Director is conferred with the powers to cancel the licenses on the grounds mentioned in clause (1) of the said provision, however, he is required to follow the procedure under sub-section (2) of Section 8 of the said Act. However, admittedly in the instant case the said provision has not been followed.

16 In so far as the learned counsel appearing for the Petitioners in Writ Petition Stamp Nos.10243 of 2015, 10879 of 2015 and 10882 of 2015 Shri R D Soni is concerned, he would contend that the action has been taken by the Market Committee without amending its bye-laws by having recourse to Section 61 of the said Act. The learned counsel would contend that the case of each Petitioners was required to be dealt with individually. The learned counsel would contend that the Respondent No.4 has also exceeded its jurisdiction by sealing the premises after the cancellation of licenses.

17 In so far as the learned counsel appearing for the Petitioners in Writ Petition Stamp Nos. 11194 of 2015, 11195 of 2015 and 11200 of 2015 Shri Pratap Sampat is concerned, he would contend that the ground made out

for cancellation of licenses does not fall under any of the grounds mentioned in sub-section (1) of Section (8). The learned counsel would contend that the order has been passed by the Director without taking approval of the State Government as is required by the Circular dated 20/03/2014 by which Circular it has been provided that the powers conferred on the Director of Marketing by the said Act and the Rules thereunder are to be exercised with the prior approval of the Government and since in the instant case prior approval has not been obtained, the said order stands vitiated on the said ground. The learned counsel would contend that in cancelling the licenses of the Petitioners, their right under Article 19(1)(g) of the Constitution of India has been violated.

18 In so far as the learned counsel appearing for the Petitioners in Writ Petition Stamp Nos.13109 of 2015, 11730 of 2015 to 11743 of 2015 Shri Abhijit Kulkarni is concerned, he would contend that the Director prior to taking action has to initiate an enquiry in respect of which a procedure is required to be followed, however, the same has not been done and therefore the order dated 04/09/2014 passed by the Director is vitiated.

19 In so far as the learned counsel appearing for the Petitioners in Writ Petition Nos. 3782 of 2015 and 4592 of 2015 Shri Jayesh Kocheta is concerned, he would contend that the action could not be taken as the bye-law

in question has been approved by the District Deputy Registrar of Co-operative Societies and therefore the entire action is illegal.

20 ***SUBMISSIONS OF SHRI A B VAGYANI, THE LEARNED GOVERNMENT PLEADER APPEARING FOR THE RESPONDENT/STATE.***

[i] That having found the Petitioners were doing retail trade in the Market Yard which was against the provisions of the said Act as also against the terms of allotment of the plots in the Market Yard to the Petitioners as also against the terms and conditions of the licenses, that the Director had to intervene and issue directions as contained in the order dated 04/09/2014;

[ii] That the directions issued are referable to clause (e) of Section 40 of the said Act as something which was not to be done was being done in the Market Yard viz the retail trade by the Petitioners.

[iii] That the Secretary and the Chairman were authorized to issue the order dated 22/12/2014 in view of the ratification of the action taken against the 83 traders amongst whom are the Petitioners by the Market Committee. The learned Government Pleader sought to place reliance on the Resolutions passed in the meetings of the Market Committee approving/ratifying the action taken of

cancellation of the licenses.

[iv] That the action taken against the Petitioners is in terms of Section 8(1)(c) of the said Act;

[v] That the notification dated 20/03/2014 issued by the State Government having been stayed by the Maharashtra Administrative Tribunal, no prior approval of the State Government was required.

21 ***SUBMISSIONS OF SHRI M L PATIL THE LEARNED COUNSEL APPEARING ON BEHALF OF THE RESPONDENT NO.4 – MARKET COMMITTEE***

[a] That the Principal Market or the Market Yard viz. The Chhatrapati Shivaji Market Yard having been established by the Respondent No.4 it was within its right to regulate the trade in agricultural produce in the said Market Yard;

[b] That the action taken by the Respondent No.4 has been approved/ratified by the Market Committee from time to time by passing Resolutions dated 20/10/2014, 29/11/2014 and 29/12/2014, and therefore, it is the Market Committee which has approved/ratified the decision taken and it cannot be said that the

Secretary and the Chairman were not authorized to pass the said order dated 22/12/2014

[c] That carrying out of retail trade was in breach of the terms and conditions of allotment as mentioned in the Lease Deed of the Petitioner No.2 viz in respect of Plot No.456 in the Market Yard which condition specifically stipulates that only wholesale trade is to be carried out on the leased out plots.

[d] That though the Rules were amended so as to provide for sale of agricultural produce with allied products, it still did not provide for carrying out retail trade in the Market Yard and therefore carrying out of retail trade in the Market Yard on the basis of the licenses issued for wholesale trade was illegal and against the terms of the Lease Deed as also the provisions of the said Act.

[e] That the Petitioners were also aware of the fact that the retail trade was not permitted in the Market Yard and it is on account of the said reason that the Petitioners had approached the State Government in the year 2006 making a grievance that the then Administrator of the Market Committee was not permitting retail trade in the Market Yard. In support of the contention that retail

trade is not permitted in the Market Yard reliance was placed on the judgment dated 29/11/2000 of the Division Bench of this Court in ***Writ Petition No.5586 of 2000*** in the matter of ***Mafco Market Vypari Association, Turbhe, Navi Mumbai and anr v/s. The State of Maharashtra & ors.***

[f] That since the Petitioners do not have a right to carry out retail trade in the Market Yard, they cannot be heard to complain as regards the violation of the principles of natural justice as in carrying out retail trade, the Petitioners were in fact carrying out activities which are illegal being not permissible in the Market Yard.

22 ***SUBMISSIONS OF SHRI G S GODBOLE, THE LEARNED COUNSEL APPEARING ON BEHALF OF THE INTERVENOR***

a] That in view of the decision taken by the Market Committee in its meetings dated 20/10/2014, 29/11/2014 and 29/12/2014 it cannot be said that the decision of cancellation of the licenses is not that of the Market Committee.

b] That the Petitioners cannot rely upon Section 6(2) to contend that retail trade is permissible in the Market Yard when in fact they

have been granted licenses for wholesale trade. The Petitioners are therefore required to carry on business in the said capacity only and at such place i.e. the Market Yard. Reliance is sought to be placed on the judgment of the Division Bench of this Court in the case of ***Ashok Bhumanna Chepurvar v/s. State of Maharashtra and ors.***[2] .

c] That the Petitioners are running grocery shops in the Market Yard which is not permissible. The term personal consumption is to be construed in a restricted sense. Reliance is placed on the judgment of the Apex Court in the case of ***Krishi Utpadan Mandi Samiti, Allahabad v/s. Baidyanath Ayurved Bhawan Private Limited and another***[3] .

d] That the word "retail" appearing in the first part of Section 6(2) would have to take colour or understood from the subsequent part of Section 6(2) i.e. for personal consumption and if so construed only sale in small quantities is permissible and not of the nature of retail trade carried out by the Petitioners.

CONSIDERATION :-

2 ***2010(5) Bom.C.R.432***
3 ***(2011)12 SCC 277***

23 Having heard the learned counsel for the parties, I have given my anxious consideration to the rival contentions. The moot issue which arises for consideration in the above Petition and the companion Petitions is, whether retail trade is permissible in the Principal Market or the Gultekadi Market Yard. It would be apposite to refer to the objects and reasons of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act. The object and reasons of the APMC Act is to protect the sellers of agricultural produce who in our country are mostly rural people and who are unorganized in their selling activities. It is to provide them a platform to sell their agricultural produce that the said Act can be said to be enacted. The objects of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act have been succinctly set out by the Apex Court in ***Belsund Sugar Co. ltd. v/s. State of Bihar***[4]. The relevant excerpt from the said judgment can be conveniently reproduced herein under for the ready reference :-

> "So far as the Market Act is concerned, it is necessary to note that it is an Act to provide for better regulation of buying and selling agricultural produce and the establishment of the markets for agricultural produce in the State of Bihar and for matters connected therewith. The Act is enacted essentially to protect growers of agricultural produce in the State who on account of their ignorance, illiteracy and lack of collective bargaining power may be exploited by the middlemen and economically strong purchasers of their agricultural produce with the result that agriculturist may not get adequate price of their produce. It is with that end in view that the Market Act

4 ***AIR 1999 SC 3125***

has been enacted."

Hence the essence of the said Act is that the agriculturist gets value for his produce by a process of market regulation by the Market Committee. This is sought to be achieved by eliminating the middleman by bringing the agriculturist in direct contact with the purchaser. Hence implicit in the same is the sale in bulk by the agriculturist to the purchaser. It would now be necessary to refer to certain provisions of the said Act which have a bearing in the context of the challenge raised in the above Petition. Sections 2(h), 2(i), 2(o), 4(1)(2)(3)(4), 5(1)(2), 6(1)(2)(3), 7(1), 8, 40(e) and 41A are material and are reproduced herein under for the sake of ready reference :-

2 Definitions.

(1) .....

2 .....

2(h) **"Market"** means any principal market established for the purposes of this Act and also a subsidiary market.

2(i) **"Market Area"** means an area specified in a declaration made under section 4 (and includes the area deemed to be a market area under clause (a) of sub-section 1(A) of Section 13)

2(o) **"Retail sale"**, means in relation to any agricultural produce, sale of that produce not exceeding such quantity as a Market Committee may by bye-laws determine to be a retail sale.

4 **Declaration of regulation of marketing of specified**

agricultural produce in market area

(1) on the expiry of the period specified in the notification issued under section 3, the State Government shall consider the objections and suggestions, if any, received before the expiry of such period and may, if it considers necessary, hold an inquiry in the manner prescribed.

Thereafter the State Government may, by another notification in the Official Gazette, declare that the marketing of the Agricultural produce specified in the notification shall be regulated under this Act, in the area specified in the notification. The area so specified shall be the market area. A notification under this section may also be published in (a newspaper in the Marathi language) circulating therein, and shall also be published in such other manner as in the opinion of the State Government is best calculated to bring to the notice of persons in the area the declaration aforesaid.

(2) On any declaration being made under sub-section (1) no local authority (or any other person) shall thereafter, notwithstanding anything contained in any law for the time being in force, establish, authorise or continue or allow to be established authorised or continued any place in the market area for the marketing of that agricultural produce.

(3) Subject to the provisions of section 3, the State Government may, at any time by notification in the Official Gazette, exclude from a market area any area, or include therein an additional area, or may direct that the regulation of the marketing of any agricultural produce in any market area shall cease, or that the marketing of any agricultural produce (hitherto nor regulated) shall be regulated in the market area.

(4) The State Government may, by notification in the Official Gazette, declare, in addition to the

existing market, a special commodity market for any market area after considering the turnover and special infrastructure requirements for marketing of a particular agricultural produce.

5 **Establishment of markets.**

(1) For every market area, there shall be established a principal market, and there may be established one or more subsidiary markets.

(2) The Director shall, as soon as possible after the issue of a notification under Sub-section (1) of Section 4, by a notification in the Official Gazette, establish any place (including any structure, enclosure, open place or locality) in any market area to be the principal market for the marketing of the agricultural produce specified in that notification and may by the same notification, or by like notification, establish in any other like places in the market area, subsidiary markets for the marketing of such agricultural produce.

6 **Regulation of marketing of agricultural produce**

(1) Subject to the provisions of this section and of the rules providing for regulating the marketing of agricultural produce in any place in the market area, no person shall, on and after the date on which the declaration is made under sub-section (1) of section 4, without, or otherwise than in conformity with the terms and conditions of, a licence (granted by the Director when a Market Committee has not yet started functioning and in any other case, by the Market Committee) in this behalf -

(a) use any place in the market area for the marketing of the declared agricultural produce or

(b) operate in the market area or in any

market therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity in relation to the marketing of the declared agricultural produce.

(2) Nothing in sub-section (1) shall apply to sales by retail, (sales by an agriculturist who sells his own produce) nor to sales to by a person where he himself sells to another who buys for his personal consumption or the consumption of any member of his family.

(3) Every Market Committee shall reserve sufficient space in the market area of its principal and subsidiary markets for the agriculturists to enable them to sell their own agricultural produce directly to the consumers without the help of intermediaries and shall also look after the maintenance of such space.

7 **Grant of licences**

(1) Subject to rule made in that behalf, a Market Committee may after making such inquiries as it deems fit, grant or renew a licence for the use of any place in the market area for Marketing of the agricultural produce or for operating therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehouseman or in any other capacity in relation to the marketing of agricultural produce or may, after recording its reasons in writing therefor, refuse to grant or renew any such licence.

(Provided that, if the Market Committee fails to grant or renew or refuse a licences within a period of sixty days from the date of receipt of the application therefor, the licences shall be deemed to have been granted or renewed, as the case may be.)

2 …….

3 …….

8 **Power to cancel or suspend licences.**

(1) Subject to the provisions of sub-section (3) a Market Committee may, for reason to be recorded in writing, suspend or cancel a licence -

(a) If licences has been obtained through wilful misrepresentation or fraud -

(b) if the holder thereof or any servant or any one acting on his behalf with his express or implied permission, commits a breach of any of the terms and conditions of the licences.

(c) if the holder of the licence in combination with other holder of licences commits any act or abstains from carrying out his normal business in the marker with the intention of wilfully obstructing, suspending or stopping the marketing of agricultural produce in the market area in consequence whereof the marketing of any produce has been obstructed, suspended or stopped.

(d) if the holder of the licences has been adjudged an insolvent, and has not obtained his discharge; or

(e) if the holder is convicted of any offence under this Acting

[(1A) Notwithstanding anything contained in sub-section (1), but subject to the provisions of sub-section (3), the Chairman and the Secretary of a Market Committee acting jointly may, for reasons to be recorded by them in writing, by order suspend a licence for a period not exceeding 15 days for any reason for which a market Committee may suspend the licence under sub-section (1).

(2) Notwithstanding anything contained in sub-section (1), but subject to the provisions of sub-

section (3), the Director may, for reasons to be recorded in writing, by order suspend or cancel any licence granted or renewed under this chapter.

(3) No licence shall be suspended or cancelled under this section unless the holder thereof has been given a reasonable opportunity to show cause against such suspension or cancellation.

40 Inspection, inquiry, submission of statements, etc.

The Director or any officer authorised by him by general or special order in this behalf may …..

(a) ……..
(b) ……..
(c) ……..
(d) ……..

(e) direct that anything which is about to be done or is being done should not be done, pending consideration of the reply and anything which should be done but is not done within such time as he may direct.

41A. Power 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 o 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.

Hence a "Market" covered by Section 2(h) would mean any Principal Market or Subsidiary Market. The definition of term "Market Area" in Section 2(i) means an area specified in a declaration made under Section 4. The concept of Principal Market or Subsidiary Market therefore stands in contradistinction to the concept of Market Area. A Market Area can be said to be larger area in contradistinction to a Principal Market or a Subsidiary Market. The Principal Market is also known as the Market Yard established under the said Act. In so far as retail sale is concerned, Section 2(o) provides that in relation to any agricultural produce, sale of that produce not exceeding such quantity as a Market Committee may by bye-laws determine to be a retail sale. Section 4 provides for delineation of the Market Area.

Section 5(1) provides for establishment of a Principal Market and establishment of the one or more Subsidiary Markets. By sub-section (2) of Section 5 the Director of Marketing is empowered to issue a notification establishing any place in any Market Area as the Principal Market for the

marketing of the agricultural produce specified in that notification and may by same notification or like notification established Subsidiary Market for marketing of such agricultural produce. By sub-section (3) the Market Committee is conferred with the power to reserve sufficient space in the Principal Market or Subsidiary Market to enable the agriculturists to sell their agricultural produce to the consumers directly. Hence as indicated herein above the concept of Market Area is larger than the concept of Principal Market or Subsidiary Market.

Now coming to Section 6 the same provides for regulation of marketing of agricultural produce. Subsection (1) of Section 6 provides that no person after the date on which the declaration is made under sub-section (1) of Section 4, without, or otherwise than in conformity with the terms and conditions of the license use any place in the Market Area for marketing of the declared agricultural produce or operate in the Market Area or any Market Area or in any market therein as a trader, commission agent, broker, processor, etc. However sub-section (2) carves out an exception to sub-section (1). The said sub-section (2) posits that nothing in sub-section (1) shall apply to sales by retail, nor to sales to by a person where he himself sells to another who buys for his personal consumption or the consumption of any member of his family. Sub-section (3) provides for a Market Committee to reserve sufficient space in Market Area of its principal and Subsidiary Markets for agriculturists

to enable them to sell their own agricultural produce directly to the consumers. Hence if the Market Committee is of the view that sufficient space is required so as to enable the agriculturists to sell their agricultural produce directly to the consumers without the help of intermediaries, it can reserve such a space.

Section 7 provides for grant of licenses for use of any place in the Market Area for marketing of agricultural produce.

Now coming to Section 8, the same provides for power to cancel or suspend the licenses. In so far as sub-section (1) is concerned, the power is conferred on the Market Committee to cancel the license on the grounds mentioned in clauses (a) to (e) of the said sub-section (1). Sub-sections (2) and (3) confer power of cancellation of licenses on the Director who may for the reasons recorded in writing suspend or cancel any license granted or renewed under the said Chapter, however, he would have to follow the procedure prescribed by sub-section (3).

Section 40 confers power on the Director to inspect, inquire, submit the statement etc. In terms of clause (e) he has power to direct that anything, which is about to be done or is being done should not be done.

Section 41A confers power on the Director to prohibit execution of

resolution passed or order made by the Committee etc.

24 Before proceeding further it would be relevant to refer to the background in respect of the establishment of the Shri Chhatrapati Shivaji Market Yard or Gultekadi Market Yard. The same has been quite elaborately mentioned in the judgment of the Apex Court in the case of ***Rameshchandra Kachardas Porwal and others v/s. State of Maharashtra and others***[5] . The facts relating to the establishment of the said Market Yard have been mentioned in the opening paragraph of the said judgment. It appears that prior to the present Act coming into force the field was occupied by the Bombay Agricultural Produce Markets Act, 1939. By notification dated 06/07/1961 issued under the said Act, the locality known as Bhavanipeth and Nanapeth of the Pune City was declared as one of the Principal Market yards for the Market Area consisting of Pune City and Haveli Talukas. The Market Area had been so declared by a notification dated 01/05/1957, pursuant to a declaration that it was intended to regulate the purchase and sale of `gur' in the Market Area. The Bombay Agricultural Produce Markets Act, 1939, was repealed and replaced by the Maharashtra Agricultural produce Marketing (Regulation) Act, 1963. By Section 64 of the Act the notifications previously issued etc. under the provisions of the repealed Act were kept alive for the purposes of the new Act. On 23/03/1971, the present Market Committee known as Krishi Utpanna Bazar Samiti, Pune was constituted under Section

5 ***(1981) 2 SCC 722***

4(1) of the 1963 Act. On 21/04/1971, the Director of Agricultural Marketing published a notification declaring his intention to regulate marketing of a large number of commodities in the Market Area of Haveli and Pune City Talukas. On 04/10/1975, the Director of Agricultural Marketing, Maharashtra State, exercising his powers under Section 5(2) of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, declared the locality known as Market Yard Gultekadi as the Principal Market for the Market Area for the marketing of various commodities specified in the notification. Thereafter on 08/10/1975 a circular was issued to all adatis, merchants, and licence holders, particularly wholesale dealers dealing in gur, halad, dhania, etc. in the vicinity of Bhavanipeth-Nanapeth informing them that Bhavanipeth-Nanapeth will cease to be a market from the midnight of 13/10/1975 and that the Market Yard Gultekadi had been declared as the Principal Market for the Market Area. The circular went on to say that anyone carrying on business anywhere except Gultekadi Market Yard was liable to be prosecuted. The consequence of the notification dated 04/10/1975 and the circular dated 08/10/1975 was that it was not permissible for anyone to carry on trade in any of the notified agricultural commodities outside the Gultekadi Market Yard on and after 14/10/1975. It meant that traders who were carrying on the business in those commodities in Bhavanipeth-Nanapeth had perforce to move into Gultekadi Market Yard if they wanted to stay in the business. It seems that pursuant to the representations made by the Petitioner No.1 herein i.e. the Pune Merchants

Chamber and the interim order in a writ petition filed in the Bombay High Court by the Chamber the date notified for the commencement of the functioning of the Principal Market in Gultekadi was postponed from time to time. Finally by a public notice dated 06/03/1980 all wholesale traders, commission agents and others dealing in agricultural produce in Bhavanipeth-Nanapeth and surrounding areas were informed that with effect from 17/03/1980 wholesale trade in the regulated agricultural produce could be carried on in the Gultekadi Market Yard only.

Hence the facts as above disclose that in so far as the jaggery/grocery market is concerned, with which we are concerned, the wholesalers, were prior to establishment of the Gultekadi Market Yard were operating from the areas within the Pune Municipal Corporation limits i.e. Bhavanipeth-Nanapeth. In view of the notification and the notice that was issued thereafter the wholesalers were asked to shift to the Principal Market which was notified under Section 5(2) and which is now known as Shri Chhatrapati Shivaji Market Yard or Gultekadi Market Yard. Hence the wholesale trade after coming into force the notification was prohibited at the places where the traders were earlier carrying out the said business and were therefore required to shift to the Principal Market or the Gultekadi Market Yard. The Apex Court in ***Rameshchandra Kachardas Porwal's*** case (supra) has observed that there is a two-tier system in the State of Maharashtra in so

far as the Agricultural Produce Market Committees are concerned. There is a Market Area which is notified under Section 4(1) and within the Market Area is the Principal Market or the Subsidiary Market which is notified under Section 5(2). Hence the concept of the Principal Market or the Market Yard stands apart from the Market Area. It is essentially in the Principal Market or the Market Yard that the Market Committee regulates the sale of notified agricultural produce to achieve the objects of the said Act.

25 In the instant case it is required to be noted that in the Lease Deed by which the plots were allotted to the traders on lease, a specific condition is appearing in Clauses 1(A), 1(B) and 5 in the Lease Deed executed between the Respondent No.4 APMC and the Petitioner No.2, whereby it is stipulated that the plots have to be utilized only for carrying out wholesale trade and that if the plots are used in violation of the same, then the Market Committee has a right to resume the plots. The said condition in the Lease Deed is therefore reflective of the fact that the retail trade in the Market Yard is not permitted. The traders being aware of the said fact as also being aware that in terms of the provisions of the Act and the bye-laws they are not entitled to carry out retail business, had therefore raised an issue in respect of the action taken by the then Administrator of the Market Committee prohibiting the retail sale of agricultural produce. Raising of the said issue was met by the response of the State Government in holding a meeting under the Chairmanship of the then

Hon'ble Minister for Co-operation, Marketing and Textiles on 02/11/2006. In the said meeting a decision was taken directing the Market Committee to amend the bye-laws so as to provide for carrying out of retail trade in the Market Yard. Though the bye-laws were not amended, the Rules relating to the user of the plots in the Market Yard came to be amended so as to provide for the agricultural produce being sold with allied products in the Market Yard in exceptional circumstances. Hence though the bye-laws did not specifically provide for retail trade being carried out in the Market Yard, the traders who are the Petitioners herein taking advantage of the amendment to the said Rules, as reflected by the reference being made to the said bye-law 58(A) (3) and (9) on the licenses issued to the Petitioners are carrying out retail trade and it is alleged against the Petitioners that the said retail trade is not only in agricultural produce but also in cosmetics etc. In fact in the companion Petitions being Writ Petition Stamps Nos.11194 of 2015, 11195 of 2015 and 11200 of 2015, it is stated that the turn over of the Petitioners in the said Writ Petitions in so far as the retail trade is concerned is in lakhs. It is required to be noted that the Petitioners are not agriculturists who are seeking to sell directly to the consumers. Hence the conclusion that is required to be drawn is that the Petitioners were also very much aware that the retail trade is not permitted in the plots which are allotted to them in the Market Yard and had therefore approached the State Government in the year 2006 for being permitted to carry on the retail trade. It is required to be borne in mind that

once the Principal Market is established, then the regulatory regime under the Act has to be adopted by the Market Committee and would apply in all its rigors to the conduct of the business in the Market Yard.

26 On behalf of the Petitioners an argument was sought to be advanced by the learned Senior Counsel appearing for them that if the licenses were required for carrying on retail trade then provisions of Section 6(2) would turn otiose, and that the Applicant – Janata Grahak Central Co-operative Society i.e. the intervenor would also require a license to carry out the business though it is not situated in the Market Yard but in the Market Area as notified. In so far as the said contention is concerned, this Court is not required to deal with the said contingency in the instant Petitions. In the instant case, this Court is only dealing with the legality and validity of the orders passed by the authorities under the said Act cancelling the licenses issued to the Petitioners.

In so far as the above aspect is concerned i.e. the reliance placed on Section 6(2) of the said Act by the learned counsel for the Petitioners to contend that retail trade is permissible in the Market Yard, in the said context Section 6(3) assumes some significance. The said sub-section (3) has been introduced by an amendment which has come into force in the year 2003. Under the said sub-section (3) the Market Committee has the power to identify

any place in the Principal Market or the Subsidiary Market where the agriculturists can directly sell to the consumers. Hence the said sub-section (3) can be said to be carves out an exception, where the agriculturists can sell directly to the consumers albeit at the place which is identified by the Market Committee in the Market Yard. The legislative intent in introducing sub-section (3) seems to be to open up an avenue for the agriculturists to sell directly to the consumers by earmarking or identifying a place in the Principal Market or Market Yard. If retail sale was permissible in the Market Yard, then there would have been no need to amend Section 6 so as to introduce sub-section (3) therein. The Petitioners have not based their case on Section 6(3) and advisedly so, as the Petitioners are admittedly not agriculturists who are wanting to sell to the consumers directly.

27 In so far as bye-law No.58(A)3 which is the old bye-law No.46(10) is concerned, the rules framed thereunder for use of the plots were amended pursuant to the meeting held on 02/11/2006 under the Chairmanship of the then Hon'ble Minister for Co-operation, Marketing and Textile Department. By the amendment what was provided by the Rules is that the Petitioners would be entitled to sale agricultural produce along with allied products. Hence even by the amendment retail trade as such was not permitted. The allied products as mentioned in the affidavit of the Market Committee would be, seeds, fertilizers, pesticides, agriculture implements etc but would definitely not be

toiletry or cosmetics which the Petitioners are retailing along with the agricultural produce, if any. The efficacy of the amended Rules is also in question as they have admittedly not been approved by the Director of Marketing. The Market Committee therefore on a wrong premise issued licenses and also renewed the licenses making an endorsement on the licenses as issued under bye-law 58(A)(3) and (9). It is relying upon the said licenses, that the Petitioners are carrying out retail trade in the Market Yard. Hence what was not permitted in the Market Yard was being allowed by the Market Committee. The Director was therefore required to intervene to stop the illegal carrying out of retail trade in the Market Yard which he has done by his order dated 04/09/2014.

28 In so far as the interpretation of Section 6(2) is concerned, there are 3 categories which are exempted under the said provision, as is sought to be contended by the learned Senior Counsel Shri A V Anturkar for the Petitioners, whereas it is the contention of Shri Godbole, the learned counsel appearing for the intervenor that the word “retail” appearing in the first part of Section 6(2) would take its colour from the subsequent part of the said provision. Hence according to the learned counsel only retail sale in small quantities of the nature covered by the latter part of Section 6(2) and definitely not the retail sale in various products carried out by the Petitioners. However, the question is whether the sale under either of these categories is permissible

in the Principal Market or the Market Yard, the answer has to be obviously in the negative having regard to the objects of the said Act and the purposes for which the Principal Market or Market Yard has been established under the said Act which is reflected in the condition mentioned in the Lease Deed namely that the Plots have to be used only for wholesale trade.. If the interpretation sought to be put forth by the learned Senior Counsel for the Petitioners and the other learned counsel appearing in the companion Petitions that the Petitioners in view of Section 6(2) are entitled to do the retail trade in the Market Yard is to be accepted, then the provisions of the said Act would turn nugatory and the objects of the said Act would be lost, and both the Market Committee and the Director of Marketing would become like toothless tigers. In any event since this Court is of the view that retail sale of the nature carried out by the Petitioners is not permissible in the Market Yard or the Principal Market, even if the interpretation of the Shri Anturkar is to be accepted that there are three categories of sale contemplated in Section 6(2) which are exempted from Section 6(1) it would not further the case of the Petitioners that they are entitled to carry out retail trade in the Market Yard.

29 The fact that the retail trade is not permissible in the Market Yard also finds sanction in the judgment of a Division Bench of this Court in ***Mafco Market Vyapari Association***' case (supra). In the said case a grievance was made by the Petitioners that in the Turbhe Market Yard the retail trade was

being carried out in breach of the Act, Rules, bye-laws as also infringing the conditions under which the galas (shops)were allotted. The Division Bench by its judgment and order dated 29/11/2000 directed the Market Committee to stop all the retail trade in the Market Yard. Hence implicit in the said judgment is the acceptance of the fact that in a market yard retail trade is not permissible. In my view, the judgment of another Division Bench of this Court in ***Solapur Bakar Khatik Association's*** case (supra) on which reliance is sought to be placed by the learned Senior Counsel for the Petitioners does not further the case of the Petitioners in so far as carrying out of retail trade in the Market Yard is concerned. In the said case bye-law No.20 of the Solapur Agricultural Produce Market Committee provided that all trade in live-stock, poultry and goats and sheep shall be regarded as wholesale. The Petitioners were therefore threatened with prosecution for not obtaining licenses. The said bye-law was challenged on the ground that the same is ultravires the provisions of Section 6 and Section 61 of the said Act. The said challenge was repelled. The legality of the bye-law was upheld. However, the issue in the said case was whether in the absence of any quantity fixed by the Market Committee for retail sale, the sale of livestock and sheep could be said to be wholesale trade and the issue was not as to whether the retail trade could be carried out in the Market Yard. In my view, for the reasons afore-stated, the Petitioners are not entitled to carry out retail trade in the Principal Market popularly known as the Gultekadi Market Yard.

30 Having considered whether the Petitioners are entitled to carry out retail trade in the Market Yard and having answered the said issue in the negative against the Petitioners, it is now necessary to consider whether in taking the action that is taken against the Petitioners there is a breach of the principles of natural justice, or whether the orders are vitiated on any of the grounds alleged by the learned counsel for the Petitioners.

31 It is an undisputed position that the action to cancel the licenses of the Petitioners has been triggered of on account of the order dated 04/09/2014 passed by the Director of Marketing. The Director of Marketing is an authority which is omnipresent and omnipotent in so far as the provisions of the said Act are concerned. The Director of Marketing is the repository of various powers under the said Act and can be said to be the pivot around whom revolves the implementation of the said Act. In the instant case, the Director of Marketing has issued the said order dated 04/09/2014 in exercise of the powers conferred by Section 40(e) of the said Act. The Director of Marketing under the said provision has the power to direct that anything which is about to be done or is being done should not be done. In the instant case the thing not to be done which the Director of Marketing has found is the retail trade being carried out by the Petitioners in the Gultekadi Market Yard i.e. the Principal Market. The Director of Marketing has also invoked powers under Section 49

of the said Act in view of the fact that the action of the Market Committee permitting the Petitioners to carry out retail trade is against the provisions of the said Act. Since the Director of Marketing is the pivot around whom the implementation of the Act revolves and can be said to be a watch-dog in so far as implementation of the provisions of the said Act are concerned, he was well within his rights to issue the directions as contained in the order dated 04/09/2014. The said order directs the Market Committee to initiate steps for cancellation of the licenses under which 83 traders were carrying on retail trade. Since the Director of Marketing has not exercised powers under Section 8(2) it was not necessary for him to hear the Petitioners, nor an enquiry under Rule 117 was required to be carried out in view of the admitted position that 83 out of 512 traders in the jaggery/grocery market amongst whom are the Petitioners, were carrying out retail trade. The Petitioners also cannot be heard to complain that the hearing before the Market Committee was an empty formality in view of the fact that the Director of Marketing has by his order dated 04/09/2014 already issued directions to cancel the licenses issued to the Petitioners. The said submission urged on behalf of the Petitioners has to be viewed in the context of the fact that in carrying on the business of retail trade, the Petitioners in fact were acting illegally as they were not entitled to carry out retail trade in the Market Yard. In any event, in view of the grievance made by the Petitioners, this Court has heard the Petitioners at some length and did not find any reason to hold that the order dated 04/09/2014 passed by the

Director of Marketing suffers from the vice of the violation of the principles of natural justice.

32 Now coming to the aspect as to whether the Secretary and the Chairman were authorized to pass the order dated 22/12/2014 on behalf of the Market Committee cancelling the licenses of the Petitioners. It is an undisputed position that under Section 8(1) the power to cancel a license is vested with the Market Committee. In the instant case, the order dated 04/09/2014 passed by the Director of Marketing was placed before the Market Committee in its meeting held on 20/10/2014. The Market Committee in the said meeting resolved to direct issuance of show cause notice to the traders who have been issued licenses to carry out retail trade to show cause as to why the licenses should not be cancelled. It was further resolved that the reply should be called for from the traders within 15 days and thereafter further necessary action should be taken. Hence the Market Committee taking cognizance of the order dated 04/09/2014 had resolved to issue show cause notices to the traders for cancellation of the licenses for retail trade. After the show cause notices were sent and since the traders had sought a period of one month to reply, the matter was again placed before the Market Committee in its meeting dated 29/11/2014 on which day a decision was taken that report be sent to the District Deputy Registrar, Pune in that regard. After the replies were received and the order dated 22/12/2014 came to be passed by the

Market Committee, the report was once again placed before the Market Committee on 29/12/2014 in which meeting the Market Committee took a decision to give a notice of 7 days calling upon the traders to stop their business and dispose of their stocks. Hence at every stage of the proceeding relating to the cancellation of the licenses of the traders i.e. the Petitioners herein, there was approval/ratification by the Market Committee and therefore though on the order the signatures of the Secretary and the Chairman of the Market Committee appear, the decision that is taken can be said to be of the Market Committee and therefore has the imprimatur of the Market Committee. In my view, therefore, the contention of the learned Senior Counsel Shri A V Anturkar for the Petitioners that the Secretary and the Chairman of the Market Committee are not authorized to pass the order is without any merit.

33 Now coming to the contention urged on behalf of the Petitioners by their respective learned counsel that the order dated 22/12/2014 passed by the Secretary and the Chairman of the Market Committee does not fall within any of the grounds mentioned in Section 8(1) of the said Act. The said order dated 22/12/2014 discloses that the same has been passed under Section 8(1) of the said Act. It is required to be noted that the directions issued by the Director of Marketing as contained in the order dated 04/09/2014 are issued under Sections 40(e) of the said Act thereby directing the Market Committee to stop the traders from carrying out the retail trade which is a thing which

should not be done in terms of Section 40(e). The said order has also been passed under Section 49 of the said Act. As indicated herein above, the plots in question allotted to the Petitioners on lease basis in the Market Yard are to be used only for the wholesale trade. Hence the plots in the Market Yard though within the Market Area cannot be utilized for any other purpose except the wholesale trade. Hence carrying out of a retail trade being in breach of the provisions of the Act in so far as the Market Yard is concerned and also in breach of the terms and conditions of the license which is for wholesale trade as also the terms of the lease which is reflective of the regulation of the trading activities in the Market Yard, the Market Committee was right in taking recourse to Section 8(1) for cancelling the licenses. In so far as instant Order dated 22/12/2014 is concerned, the same is referable to clause (b) of Section 8(1) of the said Act.

34 In so far as the contention of the learned counsel appearing for the Petitioners in Writ Petition Stamp Nos.11194/2015, 11195/2015 and 11200/2015 Shri Pratap Sampat that since prior approval of the State Government has not been obtained by the Director of Marketing which is necessary in terms of the circular dated 20/03/2014 is concerned, in my view, the said submission cannot be countenanced in view of the fact that the Maharashtra Administrative Tribunal by its order dated 03/04/2014 has stayed the effect and operation of the said notification dated 20/03/2014. The

proceeding in question was filed by the Director of Marketing Dr. Subhash Dhondiram Mane being original Application No.327 of 2014 in which by the said order dated 03/04/2014 interim relief in terms of prayer clause 10(a) came to be granted to the Applicant i.e. Dr.Mane. A reading of prayer clause 10(a) discloses that it seeks staying the effect and operation of the notification dated 20/03/2014 till the final decision of the original Application. The learned counsel for the Petitioners have not been able to point out that the said order has been vacated or set aside. In view of the said order dated 03/04/2014 passed by the Maharashtra Administrative Tribunal the need for seeking prior approval of the State Government stands obviated. Similarly the contention that the action of cancellation of licenses is in violation of the fundamental right of the Petitioners under Article 19(1)(g) of the Constitution of India has to be rejected as it is well settled that the right under Article 19(1)(g) is subject to reasonable restrictions that may be imposed. In the instant case what is impermissible is the carrying on of retail trade in the Market Yard. The Respondent No.4 through its counsel has in terms stated that it has no objection if the Petitioners carry out wholesale trade by obtaining a license in that regard from the Market Committee.

35 As regards the contention of the learned Senior Counsel for the Petitioners Shri A V Anturkar that since the life of the Board of Administrators is only one year assuming that there is an approval by the Board of

Administrators which is exercising powers of the Market Committee, the said approval could be of no avail as the Board of Administrators has been appointed in the year 2003 and therefore the statutory limit of one year is already over. In my view, there is no merit in the said contention, firstly the said contention is raised at the hearing of the above Petition and the said point has not been raised in the above Petition, so that the Respondent No.4 i.e. the Market committee and the State could factually deal with it, secondly it would have to be presumed that since the Board of Administrators is continued the necessary orders etc must have been issued by the State Government continuing the Board of Administrators and lastly on the application of the doctrine of de-facto the order dated 22/12/2014 passed by the Market Committee can be sustained.

36 For the reasons afore-stated this Court does not find any illegality or infirmity in the order passed by the Director of Marketing dated 04/09/2014 as also the order dated 27/03/2015 passed by the Appellate Authority.

Since the Market Committee has no objection to the Petitioners carrying out wholesale trade in the Market Yard, the Petitioners are at liberty to approach the Market Committee for disposal of their pending stock, the same to be disposed of latest by 15th June 2015. It is however clarified that the Petitioners would not be entitled to carry out retail trade, but the aforesaid

indulgence is shown so as to enable the Petitioners to dispose of their pending stock. The Petitioners would also be at liberty to apply for issuance of licenses for wholesale trade. If any such applications are made, the Market Committee would deal with the said applications appropriately in accordance with law without being influenced by the instant Judgment. The said applications to be disposed of expeditiously. All the above Petitions accordingly fail and are consequentially dismissed.

Rule in all the above Petitions stands discharged with parties to bear their respective costs.

[R M SAVANT, J]