

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6369 OF 2007

Shri Manoj Manikchand Parakh.	...	Petitioner.
V/s.		
Mumbai Agricultural Produce Market Committee and others.	...	Respondents.

U.B.Nighot i/b. A.B.Kadam for the petitioner.

N.N.Bhadrashete for respondent No.1.

PPKakade, AGP for respondent Nos.2 and 5.

**CORAM : NARESH H. PATIL AND
S.B. SHUKRE, JJ.**

DATED : 11th June 2015.

PC.

The petitioner, a trader challenges resolution seeking to recover dearness allowance paid to the Mapadi workers to the tune of Rs.2,21,62,259/-. The Mathadi Board had issued appropriate directions for payment of such an amount. The resolution of A.P.M.C., Mumbai passed on 12th June 2005 refers to the order passed by this Court for recovery of the said amount from traders.

2. Learned counsel appearing for respondent No.1 has placed on record copy of the order passed by the Division Bench in W.P.No.

255/2006 dated 11th February 2011. Learned counsel submits that identical issue of challenge to the resolution seeking recovery of said amount at the instance of traders' association was considered by the Division Bench of this Court and the petition was dismissed. It is submitted that the present petition raises identical issue. The said order is taken on record.

3. We have heard learned counsel for the petitioner, learned counsel for respondent No.1 and learned A.G.P.

4. The order dated 11th February 2011 passed in W.P.No. 255/2006 reads as under:

1. This petition is filed by the Petitioners, which claim to be the Association of wholesale Brokers and commission agents in Onion, Potato and Garlic and are holding licences from the Mumbai Agricultural Produce Market Committee. In the petition, the Petitioners have challenged the demand of the Market Committee to recover the amount of Rs.2,21,62,259/- from the members of the Petitioners. But the learned Counsel appearing for the Petitioners is not able to show us any document, which will show that the Market Committee has made any demand from the Petitioners. We find that the Market Committee is registered as an employer with the Mathadi Board in relation to Hamal as well as Mapadis and therefore is liable to pay as employer to the Mathadi Board the amounts that are demanded by the Mathadi Board on account of the payment to be made to the Hamals and Mapadis. The Market Committee, in our opinion, will be justified in recovering that amount from the Traders and the Commission Agents, who are their licencees, because it is for their benefit that the

services of Hamals and Mapadis are available. We do not find any substance in the petition. Petition is dismissed. Rule discharged. No order as to costs.

5. The subject resolution was considered by the Division Bench while deciding W.P.No.255/2006. The said petition was filed by Kanda Batata Adat Vyapari Sangh. The petitioner herein is an individual trader. In view of the fact that the petition filed by the traders' association was dismissed by this Court, another petition filed by the individual trader need not be entertained for the same cause of action. The issue is already concluded.

6. Writ petition is dismissed. Rule is discharged.

(S.B. SHUKRE, J.)

(NARESH H. PATIL, J.)