

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 196 OF 2010

Vasant Ganesh Apte

.. Petitioner

V/s.

Prakash Naiknavare & Ors.

.. Respondents

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Mr. M. A. Choudhari, Advocate for the Petitioner.

Ms. Kalyani i/b. Mr. S. B. Deshmukh, Advocate for Respondent No.1.

Mr. Vikas Mali, AGP for Respondent Nos. 4 and 5.

Mr. Gopal Ozalwar i/b. Mr. B. V. Mahadik, Advocate for Respondent No.6.

Mr. B. G. Vaidya, Advocate for the Applicant in CAI No.104 of 2015.

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

DATED : AUGUST 21, 2015.

P.C.

By an order dated 10th March, 2015, the Division Bench of this Court had recorded submissions of the learned AGP and granted further time for inspecting the Audit Reports of certain sugar factories. The petition was placed on 18th June, 2015 under the caption, "Hearing as to Interim Relief". This Court observed that the decision taken by the State Government shall be placed on record before the next date.

2 We find a communication made by the Joint Secretary, State of Maharashtra addressed to the learned AGP on 5th March, 2015. The matter thereafter got adjourned on number of times.

3 Learned counsel appearing for the petitioner submits that inspite of there being two reports submitted, the Maharashtra Rajya Sakhar Sangh has not initiated any action against whom the committee found that there was a *prima facie* material. It is submitted by the Counsel that on 28th November, 2008, a complaint was made addressed to the Commissioner of Police but no action has been taken on the said complaint. Learned AGP has brought to our notice the order passed by the Division Bench (Coram : Swatantra Kumar C.J. and S.C. Dharmadhikari, J.) in Civil Application No.73 of 2009 in PIL Writ Petition No. 117 of 2009 on 21st August, 2009. The substituted order read thus:

“i. Therefore, we dispose of the Writ Petition with a direction to the Department of Co-operation of the State of Maharashtra to examine the complaint addressed by the Petitioner to the Chief Minister dated 6th of November, 2008 and conduct proper enquiry thereto.

ii If during the course of the enquiry it is found by the said Department that certain misdeeds have been committed which are likely to attract the provisions of the Indian Penal Code, it shall take due help of the Commissioner of Police to whom the complaint dated 28th November, 2008 has been addressed.

iii The matter shall be examined by the Authorities and appropriate orders shall be passed expeditiously.

iv The Writ Petition shall stand disposed of in terms of the said direction.

v The PIL Writ Petition as well as the civil application stand disposed of in the above terms."

4 Learned AGP has also brought to our notice a communication made by the Deputy Secretary Dr. Sudhin Gaikwad addressed to the Sugar Commissioner, Pune on 6th August, 2015.

5 It is submitted by the counsel appearing for the petitioner that neither the Commissioner, Sugar has taken any action nor the police machinery has registered an offence on the complaint filed by the petitioner.

6 Learned counsel appearing for respondent no.1 submitted that considering the prayers made in the petition, the petition is worked out, as inquiry report was submitted and a communication was made by the State Government directing the Commissioner to take action.

7 We have perused the inquiry report placed on record. The affidavit-in-reply is filed by Smt. Kavita Parkar, Joint Secretary, Co-operation on 3rd September, 2014. In paragraph 2 the deponent states as under:

*“2. I say that subsequently, vide communication dated 25.7.2014 and 5.8.2014, Chairman/ Managing Director of the Sugar Federation, has been directed to submit the action taken report to the State Government in pursuance of the enquiry report of the committee. However, the same has not been yet received by the State Government. I further say that as soon as the action taken report is received from the Sugar Federation, the same will be submitted to this Hon'ble Court. Hereto annexed and marked as **Exhibit 3 Colly** are copies of the letters dated 25.7.2014 and 5.8.2014.”*

8 Learned counsel appearing for the respondent no.1

submitted that he had disputed the findings of the committee. The respondent no.1 was not given appropriate opportunity to canvass his case before the committee. We do not express any opinion on the merits of the findings of the committee, as it would be open for the contesting party to raise appropriate plea before the appropriate forum.

9 In view of the order passed by this Court earlier and the finding of the High Power Committee headed by the Secretary Co-operative Mr. Rajgopal Devra, we direct the State Government and the Commissioner Co-operative to take appropriate steps in accordance with law, within eight weeks from today. The Commissioner of Police is also entitled to take appropriate steps in accordance with law on the complaint made by the petitioner on 28th November, 2008 on its own merits. With these observations and directions, the PIL is disposed of.

10 All the pending Civil Applications are disposed of.

(S. B. SHUKRE, J.)

(NARESH H. PATIL, J.)