

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.9095 OF 2016

Bhimashankar Sugar Mills Ltd.,  
Vasant Nagar, Pargaon,  
Taluka – Washi, District – Osmanabad  
through its Executive Director  
Mr. Nitin Satish Lodha  
age: major, occu: business,  
R/o As above

Petitioner

**Versus**

- 1 State of Maharashtra,  
Through the Commissioner of Sugar,  
Maharashtra State,  
Sahkar Sankul, Shivaji Nagar  
Pune
- 2 The Collector, Osmanabad,  
District – Osmanabad
- 3 Regional Joint Director (Sugar)  
Nanded, District – Nanded
- 4 Special Auditor, Class – I  
Co-operative Societies (Sugar)  
Osmanabad, District – Osmanabad
- 5 Pralhad Ramaji Ingole,  
age: 37 years, occu: agriculture  
District President of Swabhimani  
Shetkari Sanghatana  
R/o Majalgaon, Tq. Ardhapur,  
Dist. Nanded

Respondents

Mr.Mukul Kulkarni h/f Mr. N.B. Suryawanshi advocate for the petitioner  
Mr. S.G. Karlekar, Assistant Govt. Pleader for Respondents No.1 to 4  
Mr. R.A. Deshmukh, advocate for respondent No.5

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CORAM : R.M. BORDE &  
K.K. SONAWANE, JJ

(Date : 25th August, 2016.)

**ORAL JUDGMENT**

**(Per: R.M. Borde, J)**

1 Heard respective counsel for the parties.

2 Rule. With the consent of the parties, petition is taken up for final decision at admission stage.

3 The petitioner is objecting to the order passed by the Commissioner of Sugar on 11.8.2016, directing payment of Rs.227.72 lakhs towards Fair & Remunerative Price (FRP) payable by the petitioner processing society. According to the petitioners, on earlier occasion, the petitioner had approached this Court by presenting Writ Petition No.11701/2015, seeking directions against the bank and seeking some time to pay the amount of Fair & Remunerative Price (FRP) which remained unpaid during the year 2014-15. This Court, while disposing of the writ petition, accepted the proposal of the petitioner to make payment of Rs.67,58,000/- towards the balance FRP, during 2014-2015 and granted two months time for complying with the directions in

respect of payment of the aforesaid amount.

4 According to the petitioner, the amount as undertaken by the petitioner before this Court, has been paid to the agriculturists and there are no dues towards the petitioner society in respect of payment of FRP to the agriculturists. It is contended that, the Director of Sugar heard the matter in the month of March, 2016 and thereafter no opportunity of hearing was extended. The petitioner could not point out the developments those have taken place after March, 2016 and place on record the relevant material before the Commissioner of Sugar to demonstrate payment of amount by the petitioner society towards FRP payable to the agriculturists.

5 It is not a matter of dispute that, the Commissioner of Sugar extended hearing to the parties in the month of March, 2016 and reserved the matter for passing orders and the orders were actually declared on 11.8.2016.

6 Learned counsel appearing for the contesting respondents contends that, the petitioner is guilty of suppression of material facts and that the balance amount of FRP payable by the petitioner society, as pointed out to the High Court in earlier Writ Petition, is an incorrect figure and much more amount is payable

by the petitioner society.

7 The questions which need factual investigation need not be gone into, in exercise of extraordinary jurisdiction under article 226 of the Constitution of India. It would be open for the Commissioner of Sugar to investigate into factual aspects and pass appropriate order, after extending opportunity of hearing to all the parties concerned. We therefore, quash and set aside the order passed by the Commissioner of Sugar on 11.8.2016 and direct the concerned authority to extend the opportunity of hearing to all the parties concerned and after investigating into the factual aspect, pass appropriate order, in accordance with law. This exercise shall be completed as expeditiously as possible and preferably within a period of eight weeks from today.

8 Rule is made absolute to the extent specified above.

9 There shall be no order as to costs.

(K.K. SONAWANE, J)

(R.M.BORDE, J)