

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6897 of 2016**

Mr. Tanaji Lakshaman Mangade
versus
The State of Maharashtra and ors.

....Petitioner
...Respondents

Mr. R. V. Govilkar along with Mr. Abhijit Kulkarni i/b. D.D. & Abhijit Associates, advocates for the petitioner.

Mr. V. M. Mali, AGP for the State.

Mr. B. D. Joshi, advocate for the applicant in civil application No. 1578 of 2016.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATE : 7th JULY, 2016.

P. C. :

Heard learned counsel and learned AGP appearing for the respective parties.

2. By this petition under Article 226 of the Constitution of India, the petitioner is challenging the show cause notice dated 5th May, 2016 issued under Section 45 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, (for short "the said Act") as well as the order dated 11th December, 2015 issued under Section 40 of the said Act along with reports dated 11th March, 2016 and 18th November, 2015.

3. On the basis of the complaint of one Laxman Subhash Sankpal, member of respondent No.5 – Agricultural Produce Market Committee Barshi, the District Deputy Register (Co-operative Societies), Solapur, issued notice dated 5th May, 2016, under Section 45 of the said Act. Meanwhile, it appears that the District Deputy Registrar also directed the Assistant Registrar (Co-operative Societies), Barshi to enquire into the said allegations made in the complaint filed by the said Laxman Subhash Sankpal. The Assistant Registrar(Co-operative Societies), Barshi, after holding an enquiry filed a report dated 18th November, 2015 and, on the basis of this report, the District Deputy Registrar(Co-operative Societies), Solapur has passed an order under Section 40 of the said Act on 11th December, 2015.

4. We are of the opinion that the petitioner is always at liberty to file reply to the notice under Section 45 as well as notice under Section 40 of the said Act. The enquiry committee appointed under Section 40 is bound to consider the objections of the petitioner and other persons similarly situated with the petitioner. In these circumstances, we find that the petition is premature and we are not inclined to entertain the same.

5. Mr. Govilkar, learned counsel for the petitioner, invited our attention to the letter dated 26th August, 2015, a copy of which is annexed at "Exhibit A" and submitted that the entire action against respondent No.5 and its Directors is being initiated at the instance of the Hon'ble Minister. On the last date, we had directed learned AGP to produce original papers. In pursuance of the said direction, learned AGP has produced original letter dated 26th August, 2015. We have seen the endorsement of the Hon'ble Minister and Director of Marketing. It is clear that one Mr.Rajendra Mirgane approached the Hon'ble Minister with his grievance about the misappropriation of the funds of respondent No.5 by its Director, and on this complaint, the Hon'ble Minister directed the concerned authority to look into the grievance of Rajendra Mirgane. The Hon'ble Minister has not given any positive directions to hold the enquiry except the endorsement which is not adverse to the interest of the petitioner. Therefore, the petitioner cannot make much grievance about this letter.

6. Mr. Govilkar, learned counsel for the petitioner, at this stage, submitted that the petitioner is ready to face the enquiry as well as the notice. He stated that since the matter was pending, the petitioner could not file reply. He further stated that the District Deputy Registrar has closed the file for orders and orders may be passed without

considering the petitioner's objections. He seeks liberty to raise the objections before the District Deputy Registrar as well as the committee appointed under Action 40 of the said Act.

7. In the above circumstances, we dismiss the petition. However, we grant liberty to the petitioner to file objections to the impugned notice/order within a period of one week from today. The authorities concerned shall, then, pass appropriate orders independently on its own merits and in accordance with law and without being influenced by the endorsement of the Hon'ble Minister.

8. In view of the disposal of the petition, civil application No.1578 of 2016 will not survive for consideration and the same stands disposed of.

(ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]