

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4074/2012

Shri Sant Gadgebaba Sahkari Dudh Utpadak and Dudh Prakriya Sanstha
Maryadit, Ghatpuri, Tah. Khamgaon, Distt. Buldhana, through its Secretary
...Versus...

The State of Maharashtra, through its Joint Secretary, Agricultural, Animal
Husbandry, Dairy Development and Fisheries Department, Mumbai – 32 and
others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.M. Ukey, AGP for respondent nos.1 to 6
Ms Priyanka Verma, Adv. h/f Shri S.N. Kumar, Adv. for respondent no.7

CORAM : SMT. VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : 17.03.2016

None had appeared on behalf of the petitioner on 16.03.2016. None appears on behalf of the petitioner today also.

We have perused the writ petition and the prayers made therein. By this writ petition, the petitioner – Society challenges the orders of the respondent - authorities restraining the petitioner–Society from withdrawing the amount of Rs.20,00,000/- that was credited in the account of the petitioner – Society.

The petitioner – Society carries on the business of milk procuring and supply of milk to the consumers. The Central Government had formulated a scheme, namely, 'Rashtriya Krishi Vikas Yojna' under the subject of dairy development activities and

the petitioner had applied under the said scheme, with a view to secure the funding from the Union and the State Government. In view of the information supplied by the petitioner, the petitioner – Society was held to be eligible and qualified to secure the benefits of 'Rashtriya Krishi Vikas Yojna'. A cheque for an amount of Rs.20,00,000/- bearing No.989434 was drawn on the State Bank of India in the name of the petitioner – Society and the respondent no.5 towards the first installment of the cost of the project. It is the case of the petitioner that immediately after the amount of Rs.20,00,000/- was credited by the State Government in the account of the petitioner – Society, the Bank was informed not to permit the petitioner to withdraw the amount of Rs.20,00,000/- towards the implementation of the dairy project. The orders prohibiting the petitioner from withdrawing the amount of Rs.20,00,000/- are challenged by the petitioner in the instant petition.

We have perused the exhaustive affidavit-in-reply filed on behalf of the respondent nos.1 to 6. It is stated in the affidavit-in-reply that the petitioner had made a false claim for seeking the benefits under the 'Rashtriya Krishi Vikas Yojna'. It is stated in the affidavit-in-reply that it was noticed by the State Government and its authorities after holding the petitioner – Society to be eligible for grant of benefit of the scheme that the petitioner – Society had made a false and an illusory claim for proving its eligibility. It is stated that it was found that the petitioner – Society did not have any infrastructure/facilities to fulfill the object/physical target of the scheme. It is further stated that after the impugned orders were passed, the State

Government had withdrawn an amount of Rs.20,00,000/- along with interest of Rs.47,123/-. It is stated that though the milk procured and supplied by the petitioner was much less the petitioner had intimated inflated quantity. Specific data is provided in the affidavit-in-reply to show that the daily and monthly collection of the milk by the petitioner – Society was much less and the assets of the petitioner were negligible. It appears from the exhaustive reply filed on behalf of the respondent nos.1 to 6 that it was later on noticed by the State Government that the petitioner also did not fulfill the other eligibility criteria. It is stated that though by the Government Resolution the 'Sanghs' were asked to first pay 20% amount of the project as a bank guarantee, the petitioner had failed to deposit the amount towards the bank guarantee. Also, it is stated that the petitioner – Society failed to open the account in the joint name of the petitioner and the respondent no.5, though the petitioner was intimated on several occasions in that regard. It is stated that the audit reports reveal that the profit shown, does not reflect the real figures and the real profit is almost nil. It is stated that it was found that the petitioner – Society had also not obtained and produced the licence under the Prevention of Food Adulteration Act and Food Safety Act, that is mandatory. Several other deficiencies are also pointed out in the affidavit-in-reply of the respondent nos.1 to 6.

On a reading of the affidavit-in-reply filed on behalf of the respondent nos.1 to 6, we do not find any illegality in the orders restraining the Bank from releasing the amount of Rs.20,00,000/- in favour of the petitioner- Society and restraining

the petitioner – Society from withdrawing the said amount. In the circumstances of the case, specially when several disputed questions of facts are involved in the writ petition, we also cannot direct the respondents to permit the petitioner to proceed to complete the project.

The writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

Wadkar