IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO. 2353 OF 2001

MAHARASHTRA RAJYA HATKAGAD
UTPADAK SANGH, PUNE,
6, SHANTI NAGAR, COLLEGE ROAD,
ERANDOL, DIST. JALGAON
Through its President Ramesh s/o.
Balwant Vispute, Age 66 years,
Occu. Business, Resident of
Erandol, Dist. Jalgaon. **....Petitioner.**

Versus

1) Maharashtra State Khadi and
Village Industries Board,
11/21, Manohar Das Road,
Fort, Mumbai 01, through its
Chief Executive Officer.

2) The State of Maharashtra,
Through The Secretary,
Finance Department,
Mantralaya, Mumbai 400 032. **....Respondents.**

Mr. Subhod P. Shah, Advocate for petitioner.

Mrs. S.D. Tambat, Advocate for respondent No. 1.

Mr. S.W. Munde, AGP for respondent No. 2/State.

CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.
DATED : JULY 14, 2017.

JUDGMENT : [PER T.V. NALAWADE, J.]

. The petition is filed to challenge the circular dated 5.6.2000 issued by respondent No. 1 on the ground that it is discriminatory in nature and it violates the provisions of Articles

14, 19 (1) (g) of Constitution of India. Further direction is claimed to strike down notification dated 7.6.2001 by which amendment in Bombay Sales Tax Act concerning the hand made paper industry is made under the aforesaid provisions of Constitution of India on the same ground. Both the sides are heard.

2) The petitioner is an association of manufacturers of hand made paper. Respondent No. 1 is a body created by the State Government under the provisions of Maharashtra Khadi and Village Industries Act, 1960 (hereinafter referred to as 'the Act of 1960' for short) for the purpose of encouraging and developing Khadi and Village Industry. It is the case of petitioner that under the aforesaid circular, a policy is prepared by respondent No. 1 due to which discriminatory treatment is given to the members of petitioner association as the benefits given to similarly situated village industries in granting exemption etc. from sales tax etc. are not being given to the members of petitioner. It is contended that there is no reasonable basis for such discrimination.

3) Copy of circular is produced on the record showing that in circular dated 5.6.2000, respondent No. 1 made it clear

that the benefit of the scheme prepared by respondent No. 1 will be given only to those co-operative societies and artizens who have taken financial assistance from respondent No. 1 or the financial institutions working under directions of respondent No. 1 and even the registration is not to be given to other institutions like the members of the petitioner under the Act of 1960. Thus, it will not be possible for the members of the petitioner association to get registration from respondent No. 1 to get the benefits like quoted above.

4) The provisions of the Act of 1960 show that the ultimate decision is to be of the State Government in respect of policy to be framed for working of respondent No. 1. It appears that representation was made to Government by petitioner, but the response given to that representation is not produced. It appears that representation was made to respondent No. 1, but it is turned down.

5) In reply affidavit, respondent No. 1 has contended that it has power to make regulations. It is contended that the Government is ultimate authority to take decision on policy, but the Government has not objected to aforesaid policy expressed in circular of respondent No. 1. By making amendment in Sales

Tax Act the policy is approved by the Government. It is contended that only because members of petitioner are doing similar business, that cannot make them entitled to get the benefits of the Government scheme under Excise or Sales Tax Act and those benefits can be given only as per the policy prepared by the Government or body of the Government prepared in that regard. It is contended that if there are some conditions prepared for getting benefit of some scheme, the benefit cannot be given unless and until the conditions are fulfilled. It is contended that the circular issued cannot be called as arbitrary in nature and it has sound basis, the object of helping those who need assistance for survival and competing in the manufacture of the items.

6) In addition to the contention made in reply affidavit by the respondent No. 1, there is one more circumstance due to which nothing survives in the present matter. In view of coming in to force of Goods and Service Tax ('GST' for short), the provisions of Sales Act etc. will not be used against the petitioner and further, for the applicability of GST, there are different conditions/requirements and those conditions/requirements will be considered for taxing now. Thus, nothing survives in the present matter. Otherwise also, the Government is entitled to

frame such policy and the power to make regulations in that regard are given under the Act of 1960 to respondent No. 1 and it can be said that the Government had no objection to the circular which was issued by respondent No. 1 in aforesaid regard. In the result, the petition stands dismissed. Rule stands discharged.

[SUNIL K. KOTWAL, J.] **[T.V. NALAWADE, J.]**

ssc/