

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

965 WRIT PETITION NO. 1699 OF 2017

GANESH JAGANNATH KAJALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. N. V. Gaware, Advocate for the petitioners,
Mr. R. B. Bagul, AGP for the Respondents -State.
Mr. Subhash V. Munde Adv. h/for Mr. A.V.Rakh, Advocate
for the Caveator.

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 17th February, 2017

ORDER:

1. Petitioner was nominated as a Member on the board of Administrators of the Jintur Agricultural Produce Market Committee. Subsequently, name of the petitioner is deleted as a Member of the said marketing committee. Aggrieved, thereby the present petition.

2. Mr. Gaware, the learned counsel for the petitioner states that the petitioner was nominated as a member of the Board of Administrators of the Jintur Agricultural Produce Market Committee after considering all the relevant aspects of the matter. The learned counsel submits that abruptly, under order dated 06.01.2017 name of the petitioner is removed from the Board of Administrators of the Jintur Agricultural

Produce Market Committee. The same is illegal. No reasons are forthcoming for such an action. The order itself should state the reasons and the reasons cannot be substituted subsequently. The learned counsel relies on the judgment of the Apex Court in a case of **Mohinder Singh Gill Vs. Chief Election Commissioner**, reported in 1978 (1) SCC 405. The learned counsel further submits that the action of the respondents is arbitrary and malafide one. Whenever the action is arbitrary, the action is subject to judicial review. Even if respondents take the plea of the "Doctrine of pleasure", still, if the petitioner shows that the action is arbitrary, capricious and malafide, the same is open for judicial review. The learned counsel relies on the judgment of the Apex Court in case of **B. P. Singhal Vs. Union of India and another**, reported in 2010 (5) SC 640.

3. The learned counsel further submits that the petitioner is a public figure. If he is removed on the ground of pendency of criminal prosecution, then same would be a blot on the petitioner. The same is stigma on the petitioner. No notice has been given to the petitioner before initiating such an action. The same is violative of principles of natural justice also.

4. We have heard learned AGP also.

5. The petitioner was nominated as Member of Board of Administrators of the Jintur Agricultural Produce Market Committee. The petitioner had not undergone any selection process nor is elected. The petitioner was nominated at the pleasure of the Government. It is at the pleasure of the Government, the petitioner is holding the post. When the appointment of the petitioner is at the pleasure of the Government, the removal is also at the pleasure of the Government

6. The cause to remove petitioner exists. There is a correspondence placed on record, showing that enquiry was directed to be made with regard to the criminal prosecution pending against the petitioner. Two criminal prosecutions are pending against the petitioner with regard to the destruction of public property and other offences. The judgment in case of **Mohinder Singh Gill**, referred supra, would not apply as earlier to the action being taken, there was enquiry with regard to the criminal prosecution and then the action is taken. The cause for exercising the doctrine of pleasure and removing the name of the petitioner cannot be a subject matter of judicial review. The court only considers

whether the cause exists.

7. Considering that the petitioner was appointed at the pleasure of the Government, after noticing that two criminal prosecutions are pending against the petitioner, the Government has exercised the pleasure and has removed the name of the petitioner from the Board of Administrators of the Jintur Agricultural Produce Market Committee.

8. No case for interference is made out. Writ petition disposed of.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC