

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.495 OF 2017

WITH

CIVIL APPLICATION NO.496 OF 2017

WITH

CIVIL APPLICATION NO.497 OF 2017

WITH

CIVIL APPLICATION NO.498 OF 2017

IN

WRIT PETITION NO.11334 OF 2013

WITH

CONTEMPT PETITION (ST) NO.7436 OF 2017

The Administrator, Mumbai Agricultural Produce Market Committee, Navi Mumbai and	... Applicant
The Fruit Merchant Welfare Association v/s	... Petitioner
State of Maharashtra and others	... Respondents

Mr Vineet Naik with Mr S.R. Kulkarni for Applicant.

Mr A.P Kulkarni for Original Petitioner.

Mr A.Y. Sakhare, Sr. Counsel with Mr C.P. Yadav, AGP for Respondent
Nos.1 to 3.

Mr N.N. Bhadrashete for Respondent No.4.

Mr Ashutosh Kulkarni for Respondent No.5.

**CORAM : SHANTANU S. KEMKAR &
B.P. COLABAWALLA, JJ.**

DATE : APRIL 17, 2017

P.C.:

Heard parties through their counsel.

2. The Administrator appointed for Mumbai Agricultural

Produce Market Committee, Navi Mumbai is seeking permission in terms of the observations made by this Court while disposing of Writ Petition No.11334 of 2013 by order dated 21st April 2015. While disposing of the aforesaid Petition, this Court imposed following condition :-

“(b) that the Administrator or the Administrative Board, if any, shall not take any major policy decision in relation to the property and funds of Mumbai APMC without prior permission of this Court.”

3. The case of the Applicant is that for lifting and taking away solid waste, the Applicant is required to spend annually Rs.1,54,79,100/-. According to the Applicant, to avoid the annual huge expenses and to have a better solution to the problem, the Applicant intends to have a project of construction and installation of solid waste management (Bio-gas Plant) at the site allotted by CIDCO to the Applicant. However, in view of the order passed by the Division Bench of this Court, the Applicant cannot proceed unless this Court grants permission for the same

4. It is the case of the Applicant that for construction of the

said Bio-gas Plant, there would be a subsidy by the State Government which would be 50 % of the total cost. It is also the case of the Applicant that Navi Mumbai Municipal Corporation has sent a letter dated 2nd December 2016 to the Applicant that they should make their own arrangement for disposal of solid waste as it will not be possible for them to continue the Applicant to have the disposal of solid waste at their Turbhe Dumping Ground, Navi Mumbai. In the circumstances, the prayer has been made by the Applicant to allow the Applicant to construct and install solid waste management (Bio-gas Plant) and to take necessary steps in furtherance of the project.

5. The learned counsel for Respondent Nos.1 to 3 submits that in case the Applicant is granted permission, the Applicant will have to submit a proposal to the Director (Marketing) and if the same is found by the Director to be necessary, viable and permissible, the permission to proceed further will be given to the Applicant. However, before the work order is issued, the Director (Marketing) has to consider again as whether to grant approval or not. He submits that the entire procedure to that effect which has been provided in the Maharashtra Agricultural Produce (Marketing and Regulation) Act of

1963 has to be followed by the Applicant.

6. The learned counsel for the Applicant submits that the Applicant shall follow all the procedural and legal requirements in case this Court grant permission to in terms of the order passed in Writ Petition No.11334 of 2013.

7. The learned counsel for the Intervenor, the learned counsel for the Respondent No.5 as also the learned counsel for the original Petitioner have objected to prayer made in the Civil Application on the ground that the land has been allotted to the Applicant by the CIDCO with condition not to use it for permanent construction. The live and licence period is valid only upto 2023. In the circumstances, the Applicant instead of using the said land allotted by CIDCO should utilize its own land which is on lease of 99 years.

8. In reply to the aforesaid objection, the learned counsel for the Applicant submits that the entire proposal shall be monitored by the Director (Marketing) and in case there is any objection which the Director (Marketing) deems fit for grant of project, it is for the

Director (Marketing) to take appropriate decision.

9. Keeping in view of the aforesaid, we are inclined to allow the Application and grant permission for construction and installation of solid waste management Bio-gas Plant in terms of the order passed by this Court in Writ petition No.11334 of 2013.

10. Needless to state that this permission shall be subject to further decision taken by the Director (Marketing). It is for the Director (Marketing) to consider all the objections raised by the parties against the said proposal in accordance with law.

11. We have also been appraised that on 14th March 2017, the Applicant has already submitted a proposal for reconstitution of the Board.

12. We direct the State Government to inform the progress in regard to holding of the elections of the Agricultural Produce Marketing Committee. We further direct the State Government to file an affidavit before the next date of hearing in regard to the steps

taken for holding of the elections of Marketing Committee.

13. Civil Applications are disposed of.

14. List the Petitions in the second week of June 2017.

(B.P. COLABAWALLA, J.)

(SHANTANU S. KEMKAR, J.)