

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2382 OF 2013

Suresh Keshavrao Gaikwad & Ors.	.. Petitioners
Vs.	
The State of Maharashtra & Ors.	.. Respondents

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Mr. A.P. Mhatre, Advocate for the Petitioners.
Ms. R. M. Shinde, AGP for Respondent Nos.1 and 3.
Mr. M. L. Patil, Advocate for Respondent No.2.

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**CORAM : SHANTANU S. KEMKAR AND
PRAKASH D. NAIK, JJ.**

DATED : JANUARY 13, 2017.

P.C. :

Feeling aggrieved by the amendment to Bye-Laws as per circular dated 29th January, 2012, the petitioners have filed this petition. According to the petitioners, the said amendment in the Bye-Laws has been carried out in pursuance to the decision taken by the Director of Marketing.

2 A preliminary objection has been raised on behalf of the respondents to the effect that Appeal would lie under Section 52(B) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (hereinafter referred to

as “the said Act”, for short) against the impugned order before the State Government.

3 Learned counsel for the petitioners submits that the Appeal would not lie as the decision has been taken at the instance of the Director of Marketing. In view of Sub Clause (B) of Section 52 of the said Act.

4 Having considered the submissions made by the learned counsel for the parties on the preliminary objection, we are of the view that the impugned order being based upon the decision of the Director of the Marketing Committee, it would be appealable before the State Government.

5 In the circumstance, in view of the availability of alternate efficacious remedy of statutory appeal against the impugned order, we are not inclined to entertain the petition. However, keeping in view the fact that the petition is pending since 2013, we grant liberty to the petitioners to file Appeal against the impugned order/decision before the Appellate Authority within one month from today. In case such appeal is filed within one month, the Appellate Authority shall not dismiss

the same on the ground of limitation and decide the same on merits and in accordance with law, as expeditiously as possible.

6 With the aforesaid liberty and observation petition is disposed of.

(PRAKASH D. NAIK, J.)

(SHANTANU S. KEMKAR, J.)