

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12855 OF 2016
(Balasaheb s/o Shankar Lokhande and another Vs. The
State of Maharashtra and others)

Mr. Rahul B. Temak, Advocate for the petitioners
Mrs. M.A. Deshpande, Additional Govt. Pleader
for respondent Nos.1 to 3/State
Mr. Sanjeev B. Deshpande, Assistant Solicitor General
of India (A.S.G.I.) for respondent No.4

CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.

DATE : 4th DECEMBER, 2018

ORDER :

Petitioners assail the notification dated 31st August, 2016, granting subsidy of Rs.100/- per quintal to the onion crops of the farmers, who have sold their onion during the period between 1st July, 2016 and 31st August, 2016 in the Agriculture Produce Market Committee ("APMC", for short).

2. Mr. Temkar, learned counsel appearing for the petitioners, submits that the petitioners are challenging the notification in question only to the

extent it does not cover the period from April, 2016 to June, 2016, during which the petitioners sold their onion in the APMC. According to the learned counsel, the policy of the Government to give benefit of subsidy only to the farmers who have sold their onion in the months of July, 2016 and August, 2016 and not extending it to those farmers, who have sold their onions during the period from April, 2016 to June, 2016, is discriminatory, arbitrary and irrational. The farmers, who have sold their onion during the period from April, 2016 to June, 2016, are also similarly situated and faced the same problems. Even in the months of April, 2016 to June, 2016, the onions were sold at the same rate at which the same were sold in the months of July, 2016 and August, 2016. The learned counsel submits that the cut-off date is discriminatory. He submits that the farmers form a class as a whole and their classification is arbitrary. In support of his submissions, the learned counsel relied on the decision of the Supreme Court of India, dated 13th May, 2016, in the case of **Swaraj Abhiyan and others Vs. Union of India (UOI) and others** and the decision in the case of **D.S. Nakara and others Vs. Union of India (1983)1 SCC 305.**

3. The learned Additional Government Pleader submits that the policy decision has been taken by the State Government to give subsidy of Rs.100/- per quintal to the onion crop upto a maximum of 200 quintals, per farmer who sold onion in the months of July, 2016 and August, 2016. Considering the peculiar circumstances, the policy in respect of grant of subsidy to the farmers was issued. The State Government had taken upon itself to bear the loss. The affidavit, filed on behalf of the respondents/State, states that for the months of July, 2016 and August, 2016, the prices of onion were 50% less as compared to the corresponding months of the earlier year. The learned Additional Govt. Pleader submits that the petitioners cannot claim the subsidy as of right.

4. It appears that the Government of Maharashtra, in the interest of farmers/agriculturists, had taken a decision to grant subsidy of Rs.100/- per quintal to the onion sold by the farmers in the months of July, 2016 and August, 2016 and that too, to a maximum of 200 quintals per farmer. The Scheme was formulated, considering the exigencies and circumstances during that period, to all those APMCs except Mumbai APMC. The scheme was not made applicable to the onion traders and

the onion which came from out of the State.

5. Nothing is brought on record to submit that there are certain rules or guidelines thereby mandating the Government to grant subsidy to the farmers with regard to sale of onion. The contention of the respondents is that the onion being perishable crop, the minimum support price therefor is not declared.

6. It would not be possible for this Court to consider the claim of the petitioners and direct the Government to grant subsidy to the petitioners for particular months and/or at a particular rate. The Government, upon deliberation, had taken the decision to grant subsidy of Rs.100/- per quintal upto a maximum of 200 quintals per farmer who sold onion in the months of July. 2016 and August, 2016. In absence of any Rules or guidelines, it would not be appropriate for this Court to transgress the policy decision of the State Government.

7. Considering the above, the authorities relied upon on behalf of the petitioners, are not applicable to the facts of the present case.

8. In the result, the Writ Petition fails and is dismissed. No costs.

[R.G. AVACHAT]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

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