

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

WRIT PETITION NO.12116 OF 2018

M/S MANJEET COTTON PVT LTD THROUGH DIRECTOR
BHUPENDRASINGH RAJPAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
WRIT PETITION NO.12119 OF 2018

M/S SHETKARI KHAJAGI BAZAAR PARISAR.
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.

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Advocate for the Petitioners : Shri Thombre S.S..
Government Pleader for Respondents 1 to 6 : Shri A.B.Girase.
Advocate for Respondent 7 : Shri V.D.Hon, Senior Advocate h/f Shri
Yenegure Apparao.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 01st November, 2018

Per Court:

1 On 29.10.2018, I had passed the following order :-

- "1 Normally these petitions are not required to be entertained since a statutory efficacious remedy under Section 52B of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, is available.
- 2 However, learned counsel for the petitioner submits, on instructions, with averments placed on record, that the authority which has passed the impugned order on 20.10.2018 viz. Anand Jogdand, Marketing Director,

Maharashtra State, Pune had already given up the charge of the said post to Mr. Deepak Taware on 19.09.2018. It is, therefore, contended that when Mr. Taware was the Marketing Director on 20.10.2018 Dr. Anand Jogdand would not have passed this order.

- 3 *Considering the above, I deem it appropriate to direct the learned AGP to take proper instructions with promptitude and without seeking further extension of time and make a statement as to who was the Director of Marketing on 20.10.2018.*
- 4 *It is made clear that if there is no controversy about the person holding the charge on 20.10.2018, who has passed the impugned order, the petitioners will have to approach the statutory authority under Section 52B of the said Act.*
- 5 *Stand over to 01.11.2018 under the caption of "Passing Orders".*
- 6 *The learned AGP shall act on the authenticated copy of this order."*

2 After hearing Shri Girase, learned Government Pleader on behalf of the statutory authorities and Shri Hon, learned Senior Advocate on behalf of Respondent No.7/ APMC, Shri Thombre, learned Advocate appearing for the Petitioners submits that if the impugned orders are recalled and a fresh opportunity of hearing is granted, the Petitioners would appear before the said Authority and would produce all material that is required to be considered for a fresh adjudication.

3 The learned Government Pleader submits that if the Petitioners deposit 50% of the amounts assessed in the impugned order, which would be approximately Rs.2 crore out of the amounts assessed of about Rs.4 crore, the statutory authorities are willing to give a fresh

hearing to the Petitioners by recalling the impugned order so as to clear all doubts about the competency, jurisdiction and locus of the authority, which has delivered the order on 19.09.2018 with outward date 20.10.2018.

4 Shri Thombre submits, on instructions, that the amount of Rs.2 crore would be deposited with the Director of Marketing, Pune on or before 24.11.2018.

5 The learned Government Pleader submits, on instructions, that after such deposit, the impugned order would be recalled and the litigating sides can appear before the Director of Marketing, Pune Shri D.R.Taware at 12:00 noon on 27.11.2018 for a fresh hearing.

6 In view of the above, both these Writ Petitions are disposed of by recording the statements as above and with the following directions :-

- (a) The Petitioners would deposit an amount of Rs.2 crore with Respondent No.3/ Director of Marketing, Pune on or before 24.11.2018.
- (b) After the amount is deposited as directed above, the Director of Marketing, Pune shall then recall the impugned order and list the matter for hearing on 27.11.2018.
- (c) All the litigating sides shall appear before Respondent No.3/ Director of Marketing on 27.11.2018 at 12:00

noon.

- (d) All the litigating sides are permitted to enter their written notes of submissions along with case law, if any and all such documents which they intend to rely upon, with proper pagination.
- (e) Besides the written notes of submissions, oral submissions in brief can be canvassed by the litigating sides before Respondent No.3.
- (f) The hearing in the matter would be concluded by Respondent No.3 on or before the 10th day of December, 2018 and he shall post the matter for pronouncing his order on 31.12.2018 at 12:00 noon. All the parties would be at liberty to remain present for the pronouncement and collect copies of the order.
- (g) It goes without saying that if after recalculation, the Petitioners are held to be liable to pay certain amounts over and above the amounts paid and now deposited under this order, the Petitioners would be liable to deposit such amounts, subject to further litigation. If the Petitioners are held to have paid excess amounts, an option would be left to the Petitioners to seek refund of the excess amounts, within three weeks

thereafter.

- (h) Needless to state, if the amount as directed above is not deposited on or before 24.11.2018, Respondent No.3 would be at liberty to proceed with the impugned order as it would not stand recalled.

kps

(RAVINDRA V. GHUGE, J.)