

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

BENCH AT AURANGABAD.

WRIT PETITION NO.14242 OF 2017

Devidas S/o Baburao Patil
and others. ... Petitioners.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.P.M.Shah, Senior advocate holding for
Mr.D.S.Bagul, advocate for petitioners.
Mrs.Vaishali Patil Jadhav, A.G.P. for the State.
Mr.B.N.Patil, advocate for Respondent No.3.
Mr.V.B.Madan, advocate for Respondent No.6.
...

**CORAM : S.V.GANGAPURWALA AND
A.M. DHAVAL, JJ.**

Date : 05.02.2018.

PER COURT :

1. We have heard Mr.Shah, learned Senior
advocate for the petitioners and Mr.Patil,
learned counsel for Respondent No.3.

3. The petitioners basically assail the
order dated 10.8.2017 and consequential orders
therein. The petitioners/APMC had submitted a

petition/application for sanction of re-appropriation.

4. According to the petitioners, the petitioners had resorted to sub-section (3) of Section 38 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. The learned Senior advocate submits that the impugned order is passed even without notice to the petitioners.

5. According to Mr.Patil, learned advocate for Respondent, there is no provision for post facto sanction of re-appropriation and even the supplementary budget has to be in the same year. The learned counsel submits that proper reasons are given by the authority while passing the impugned order dated 10.8.2017.

6. It appears that the petitioners had after audit was conducted in the year 2017, submitted application for sanction of the excess expenditure made under different head on the ground that the funds were available in different

heads. The same was for the year 2012-2013, 2013-2014, 2014-2015.

7. Considering the nature of the dispute involved and the further liability that would be incurred if any order adverse is passed, it would be appropriate if the petitioners are given an opportunity by the authority before rejecting their application for sanction of the excess expenditure.

8. In light of the above, the impugned order dated 10.8.2017 (Exh.M) is set aside. The authority shall after hearing the petitioners/APMC decide the same afresh on its own merits. The petitioners shall appear before the authority on 12.2.2018. The authority shall decide it preferably within one month from the date of appearance.

9. In view of the above, other consequential orders also shall not have any effect. The authorities may proceed further depending upon decision that would be given by

the authority after hearing the petitioners/APMC.

10. The Writ Petition is disposed of. No costs.

(A.M.DHAVAL, J.)

(S.V.GANGAPURWALA, J.)

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