

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

WRIT PETITION NO. 1233 OF 2017

Shri. Vikram Pawar & Ors.

... Petitioners

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. A.V. Anturkar, Senior Counsel I/b Tanaji Mhatungade for the
Petitioner.

Mr. Y.S. Khochare, AGP for Respondent Nos. 1 to 3.

Mr. V.S. Kapse I/b Mr. Shailesh D. Chavan for Respondent No.4.

CORAM : A. S. OKA, &

N.J.JAMADAR, JJ.

DATE : 21st NOVEMBER, 2018

P.C.:

1. Heard the learned Senior Counsel appearing for the Petitioners, the learned AGP for 1st, 2nd and 3rd Respondents and the learned Counsel for the 4th Respondent.
2. The challenge in this petition under Article 226 of the Constitution of India is to the show cause notice under Section 45 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (for short “the said Act of 1963”). By the show cause notice, the Petitioners have been called upon to show cause as to why action of removal shall not be taken in exercise of power under Sub-Section 1 of Section 45

of the said Act of 1963. In our view, it is not necessary to interfere at this stage with the show cause notice. However, considering the allegations made in the petition that the entire exercise has been initiated at the instance of 4th Respondent, it is necessary to grant a limited protection to the Petitioners. Accordingly, we dispose of the petition by passing the following order:-

- i) We decline to entertain this petition under Article 226 of the Constitution of India only on the ground that it is against a show cause notice;
- ii) It will be open for the concerned authority empowered to pass order under Sub-Section 1 of Section 45 of the said Act of 1963 to pass appropriate order in accordance with law after giving proper opportunity of being heard to the Petitioners;
- iii) It will also be open for the Petitioners to file additional reply to the show cause notice within a period of two weeks from the date on which this order is uploaded;
- iv) If the order passed be adverse to the Petitioners, the same shall not be implemented in any manner for a period of two weeks from date on which the same is served upon the Petitioners;

v) We make it clear that we have not made any adjudication on the merits of the controversy and all the questions on merits are kept open.

(N.J.JAMADAR, J.)

(A.S.OKA, J.)