

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

902 WRIT PETITION NO.12025 OF 2018
WITH CIVIL APPLICATION NO.574/2019
IN WRIT PETITION NO.12025/2018

MAHADEV KISAN SAPKAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. Narwade Narayan B
AGP for Respondents State: Mrs. G. L. Deshpande
Advocate for Respondent No.2 : Mr. Andhale Sandip R

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

DATE : 29th January, 2019

PER COURT :

1. We have heard Mr. Narwade, learned counsel for the petitioner, Mr. Andhale, learned counsel for respondent No.2 so also learned AGP for respondent Nos. 1, 3 and 4/State.

2. The petitioner assailed the order, re-fixing his pay and recovery being claimed. The dispute is as to whether the petitioner has worked as Assistant Secretary of respondent No.2- Agricultural Produce Market Committee, Pathardi. It appears from the record and after hearing the learned counsel for the respective parties that impugned order, re-fixing pay of the petitioner, has been passed without notice to the petitioner.

3. It is trite that whenever pay fixation is changed to the detriment of the employee, minimum requirement of adherence to the principles of

natural justice viz. issuing show cause notice to the employee is to be followed. The impugned order is without notice to the petitioner.

4. In the light of above, it would be appropriate, if the respondent APMC calls say from the petitioner and after considering say of the petitioner, passes an order afresh, regarding pay fixation.

5. The impugned order dated 04.10.2018 shall be construed as show cause notice to the petitioner. The petitioner shall reply to the same within 15 days from today. Upon receipt of the reply, respondent No.2 shall take fresh decision with regard to the pay fixation, considering the reply filed by the petitioner. Till the fresh decision is taken, recovery shall not be claimed from the petitioner on the ground of wrong pay fixation.

6. Parties to take further steps pursuant to the order that would be passed by respondent No.3 with regard to the pay fixation.

7. Writ petition is accordingly disposed of. No costs.

8. In view of disposal of the writ petition, civil application also stands disposed of.

(A. M. DHAVAL, J.)

(S. V. GANGAPURWALA, J.)

JPC