

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3824 OF 2016

Mahesh Patangrao Chavan & Anr.	...	...Petitioners
v/s.		
The State of Maharashtra & Ors.		...Respondents

...

Mr.Umesh Mankapure for the Petitioners.
 Mr.R.P.Kadam, AGP for the State.
 Mr.Yogesh Patil i/b V.D. Patil for the Respondent No.3.

...

CORAM : A.A. SAYED &
SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 16 DECEMBER 2019

P.C.:

This Petition as initially filed sought the following reliefs:

“(b) To issue writ of mandamus or any other appropriate writ or order in like nature, thereby the Respondents Nos.1, 2 and 3 may kindly be directed to take necessary action in order to fill up all vacant post of secretaries of all Market Committee of entire State of Maharashtra within stipulated time period without invalidating period of panel prepared & published by the Respondent No.3 on 07-01-2013.

(c) To issue writ of mandamus or any other appropriate writ or directions in the like nature, thereby the Respondent Nos.1, 2 and 3 on 07-01-2013 till filling up all vacancies of the post of secretaries of all the Market Committees situated in the State of Maharashtra.

(d) This Hon’ble High Court be pleased to quash and set aside the decision taken by the Respondent No.3 in meeting dated 19-11-2015 thereby creation of new panel for Secretary;

2. On 4 March 2019, this Court passed the following order:

“The Petitioners are at liberty to make representation to Respondent No.3, which representation shall be considered in accordance with law. Stand over to 1st April 2019”

3. Pursuant to the above order, a representation was made by the Petitioner No.1 on 9 March 2019, on which a decision was taken by the Respondent No.3-Maharashtra State Agricultural Marketing Board (Board) on 26 March 2019 rejecting the same. This decision dated 26 March 2019 is also challenged in this Petition by way of amendment to the Petition and prayer clause (bb) is added which reads thus:

“(bb) This Hon’ble High Court, exercising extra ordinary powers u/s 226 of Constitution of India, be pleased to quash and set aside the communication dated 26-03-2019 passed by Respondent No.3 with further direction to include name of Petitioner in pool of Secretaries thereby suitably notifying the minutes of meeting dated 22-12-2018.”

4. Under the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (hereinafter referred to as “the APMC Act”) and the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 (hereinafter referred to as “the APMC Rules”), the Respondent No.3-Board is empowered to prepare a list of persons to be appointed as Secretaries on the local Agricultural Produce Market Committees. On 15-05-2012, the Respondent No.3-Board published

an advertisement inviting applications from qualified persons for preparing a list of panel for the post of Secretaries. On 07-01-2013, the Respondent No.3-Board published a panel list consisting of 362 persons. The Petitioners Nos.1 & 2 were at serial No.17 and 177 respectively of the said panel list. Prior to 15-07-2013 the local APMC had the right to appoint Secretaries from the panel list prepared by the Respondent No.3-Board. On 15-07-2013, the Respondent No.1-State issued a Circular conferring power to the Respondent No.3-Board for appointment of Secretaries as certain illegalities were allegedly found in the appointment of Secretaries by the local APMC. On the basis of said Circular dated 15-07-2013, the Respondent No.3-Board issued a common appointment order to 129 candidates on 27-08-2013.

5. The Respondent No.8-Maharashtra State Market Committees Co-operative Federation Ltd., filed Writ Petition No.7720 of 2013 in this Court challenging the Circular dated 15-07-2013 and the common appointment order dated 27-08-2013. By order dated 21-10-2013, this Court (Coram: A.S.Oka & Revati Mohite Dere, JJ.) while issuing Rule in the Petition, stayed the said Circular dated 15-07-2013 and directed not to act upon the said Circular dated 15-07-2013 which would necessarily include a direction not to act upon the common appointment order dated 27-08-2013. The

Court, however, did not disturb the appointment of those 51 Secretaries who had already taken charge of the respective Market Committees.

6. In the Affidavit-in-Reply it is stated that the Petitioner No.1 was given appointment order dated 27.08.2013 by the Respondent No.3-Board, but he was not given charge by the Market Committee, Islampur, Sangli. Hence, his name did not appear in the list of those 51 candidates who were protected by order dated 21-10-2013 passed by this Court. The Respondent No.3-Board is now preparing a list of 200 candidates for post of Secretaries in the Market Committees all over the State. It is stated that under the Circular dated 07-01-2013 it is provided that the names of those candidates who were not given charge by the respective Market Committees, will be automatically excluded from the said list, however, the names of those candidates who have taken charge in the respective Market Committees, will be included in the next panel members list.

7. Having heard the learned Counsel for the Petitioners and the learned Counsel for the Respondents, in our view, the Petitioners would not be entitled to any reliefs in the Petition. By order of this Court dated 21-10-2013 in Writ Petition No.7720 of 2013 the Respondents are restrained from acting upon the Circular dated 15-07-2013 under which the Petitioners were

issued appointment orders. Moreover, the said Circular dated 15-07-2013, now stands revoked vide Government order dated 21-04-2017 and term of list of candidates prepared by the Respondent No.3-Board has already come to an end on 6-01-2016. The Petitioners have not sought any modification of the said order dated 21-10-2013 nor have they challenged the Government order dated 21-04-2017. The Petitioners, therefore, cannot rely upon their appointment order dated 27-08-2013 to seek any relief in the present Petition. In clause 4 of the Circular dated 07-01-2013 it is stated that the names of candidates who are not given charge shall be automatically excluded from the panel list and the names of those candidates who have taken charge in the respective Market Committees will be included in the next panel list. The said clause in the Circular dated 07-01-2013 has not been challenged by the Petitioners. Pursuant to resolution dated 24-11-2018 of the Respondent No.3-Board, the process for preparing a panel list of 200 Secretaries is initiated. It is resolved that the Secretaries who are working with the Market Committees would be included in the said list. It is required to be noted that the 51 persons, whose names have been included in the panel list, were protected by the interim order dated 21-10-2013 passed by this Court in Writ Petition No.7720 of 2013, as they have taken charge and are functioning as Secretaries. The case of the said 51

persons therefore cannot be equated with that of the Petitioners who have not taken charge. The Petitioners thus cannot claim parity with the 51 persons. The said 51 persons, therefore, fall in the different class than the Petitioners who were merely given appointment orders but had not taken charge. Apart from the Petitioners, there were at least 77 other persons in the list who had received appointment orders, but had not taken charge. In any event, a fresh list is being prepared and it has been resolved by the Respondent No.3-Board that age limit of the candidates from the old list be increased to 50 years as relaxation to enable them to apply and appear for the examination. The challenge to the decision taken in the meeting dated 19-11-2015 of the Respondent No. 3 Board to start a fresh procedure for creating new panel of Secretaries is also without substance.

8. In the circumstances, we do not find any infirmity in the impugned decision dated 26-03-2019 rejecting the representation of the Petitioners to include their name in the pool of Secretaries. There is no merit in the Petition.

9. The Petition is accordingly dismissed. No costs.

(ANUJA PRABHUDESAI, J)

(A.A. SAYED, J)