

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8496 OF 2018

Shri.Nanasaheb Dattaji Patil & Ors. ... **Petitioners**

V/s.

The State of Maharashtra & Ors. ... **Respondents**

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Mr.A.V.Anturkar, Senior Advocate with Mr.Sugandh B. Deshmukh,
Advocate for the Petitioners.

Mrs.Dr.K.R.Patil, AGP for the Respondent Nos.1,3,4,5,6,7/State.

Mr.P.S.Dani, Senior Advocate with Mr.Kishor S. Patil, Advocate for
the Respondent No.2.

Mr.Tushar Narayan Sonawane, Advocate for the Respondent No.9

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**CORAM : INDRAJIT MAHANTY &
 A.M.BADAR JJ.**

DATED : 17th JUNE 2019.

P.C. :

1 Heard the learned Counsel for the respective parties.

2 This writ petition have come to be filed by all
petitioners, who had made a complaint before the Director of
Marketing regarding alleged illegality pertaining to the operation
of the Lasalgaon Agricultural Produce Market Committee. Learned
Senior Counsel appearing for the Petitioners drew our attention to

the report of the District Deputy Registrar Co-operative Societies, which was inquired into and report is submitted at page No.113 of the writ application. The learned Senior Counsel appearing for the petitioners submitted that the Director failed to take any action on such report. Consequently, he was compelled to file the present writ petition making several prayers.

3 An affidavit has come to be filed on behalf of respondent No.1 and 3 to 6 by Abhijeet Vijay Deshpande, Assistant Registrar, Co-operative Societies, Niphad, Taluka Niphad, District Nashik and in particular it would be important note, at the outset, the fact that the deponent i.e. Assistant Registrar had no role to play whatsoever in the complaint made by the petitioners neither in the inquiry nor in the action thereafter. Although the Assistant Registrar has been impleaded as respondent No.6, the complaint was essentially made against inaction on the part of respondent No.3/Director of Marketing. We record our displeasure in the fact that the affidavit in this matter ought not to have been sworn by the Assistant Registrar Co-operative Societies, since he has no role to play in so far as conduct of the above inquiry and action to be taken therein. It would be appropriate for the Director of Marketing to have filed the affidavit.

4 The learned Senior Counsel appearing for the petitioners essentially contended that it was incumbent upon the

Director of Marketing after receiving the report of inquiry conducted by the Assistant Registrar, Co-operative Societies to afford an opportunity of hearing to the petitioners prior to taking any action what the Director Marketing would think appropriate in the matter.

5 The learned Counsels appearing for the respondent Nos.2 and 9 submits that no such prayer has been made in the writ application.

6 Having heard to the learned Counsel for the respondents, we are of the considered view that the interest of justice would be served if the matter is remitted back to the Director of Marketing with further direction to afford an opportunity of hearing to the writ applicants as well as respondent Nos.2 and 9 and thereafter after giving such opportunity conclude the matter and take such steps as may be necessary in the said regard if it becomes necessary in said regard.

7 Although certain contentions were raised by the learned Counsel for the respondents as found by the inquiry officer in the inquiry, we do not intend to deal with it herein since we are of the considered view that the matter to be heard by the Director of Marketing without, in any manner, being influenced by the reply-affidavit filed by the Assistant Registrar before this Court.

8 The Director of Marketing shall afford an opportunity of hearing and dispose of the matter expeditiously strictly within a period of three months from today.

9 With this, the Writ Petition stands disposed of.

(A.M.BADAR, J.)

(INDRAJIT MAHANTY, J.)