

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2573 OF 2019

Agriculture Produce Market Committee (A.P.M.C.) Shegaon, Thr. Its Chairman (Sabhapati)
Shegaon, Dist. Buldhana

-vs-

Nitin Ambadas Tayde, Nimba, Tq. Balapur, Dist. Akola

WITH

WRIT PETITION NO. 2575 OF 2019

Agriculture Produce Market Committee (A.P.M.C.) Shegaon, Thr. Its Chairman (Sabhapati)
Shegaon, Dist. Buldhana

-vs-

Vishnu s/o Samadhan Nile

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri M. S. Sharma, Advocate for petitioner.
Shri M. V. Mohokar, Advocate for respondents.

CORAM : A.S.CHANDURKAR, J.

DATE : October 04, 2019

Challenge raised in these writ petitions is to the interlocutory order passed by the Industrial Court as a result of which the respondent in each writ petition has been permitted to continue in service of the petitioner Market Committee during pendency of the complaint. While the respondent in Writ Petition No.2573/2019 has been appointed on Class-III post, the respondent in Writ Petition No.2575/2019 has been appointed on Class-IV post.

2. Shri M. S. Sharma, learned counsel for the petitioner Market Committee submits that it was necessary for the complainants to have impleaded the Director of Marketing as a party to the complaint in view of the relief sought in the said

complaints. As the complainants were claiming relief of regularization, presence of Director of Marketing was necessary. The party impleaded in the complaint was not a party competent to grant the relief as prayed for. He referred to the provisions of Rule 100(5) of the Maharashtra Agriculture Produce Market Committee (Development and Regulation) Rules, 1967 (for short, the said Rules). He further submitted that the complainant was appointed without following the due procedure and in absence of any advertisement issued. He sought to place reliance on the decision in *Rashtrasant Tukdoji Maharaj Nagpur University and anr. vs. Honourable Member and ors. 2016(2) Mh.L.J. 454* in that regard. It is thus submitted that the Industrial Court was not justified in continuing the services of the complainant during pendency of the complaint.

3. Shri M. V. Mohokar, learned counsel for the respondent supported the impugned order. According to him since the complainants were appointed on a sanctioned post, it was not necessary to implead the Director of Marketing as a party to the proceedings. He further submitted that after following the due process and after advertising the post in question the complainants came to be appointed. The Industrial Court after considering all relevant aspects rightly granted the interim relief.

4. Heard the learned counsel and perused the documents on record. It is seen that the question whether the Director of Marketing is a necessary party or not is a factor to be considered when the complaint is finally decided. According to the complainants since they had been appointed on sanctioned posts

it was not necessary to implead the Director of Marketing as a party to the complaint. It is further sought to be justified that the appointment of the complainants was made after following the prescribed procedure and reliance was placed on the letter dated 16/08/2018 to urge that the appointment was within the power as contemplated by Rule 100(5) of the said Rules. It is seen that the Industrial Court has considered the material on record and has taken a prima facie view of the matter while granting interim relief. At this stage therefore I do not find any reason to interfere in writ jurisdiction.

5. By clarifying that the complaints shall be decided on its own merits without being influenced by any observations made either in the interlocutory order or in the present order, the writ petitions stand dismissed with no order as to costs. The proceedings in the complaints are expedited.

JUDGE