

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

WRIT PETITION NO.5933 OF 2019

Shridhar Dinkar Unhale

-vs-

State of Maharashtra, Thr. Its Secretary of Marketing and Textile Dept. Mumbai 32 and ors.

WITH

WRIT PETITION NO.5113 OF 2019

Deepak Gajanan Kadale and ors.

-vs-

State of Maharashtra, Thr. Its Secretary of Marketing and Textile Dept. Mumbai 32 and ors.

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

Court's or Judge's Orders.

Shri P. S. Kshirsagar, Advocate for petitioners.

Shri A. V. Palshikar, Assistant Government Pleader for
respondent No.1/State.

Shri S. K. Bhandarkar, Advocate for respondent No.3 in
WP No.5933/19.

Shri M. V. Rai, Advocate for respondent Nos.6 to 14
in WP No.5113 of 2019.

CORAM : A.S.CHANDURKAR, J.

DATE : September 16, 2019

Rule. Heard finally with consent of counsel for the parties.

The challenge raised in both these writ petitions is to the interim order passed by the Honourable Minister, Marketing in proceedings under Section 52 (B) of the Maharashtra Agriculture Produce Marketing (Development and Regulation) Act, 1963 (for short, the said Act). By the said impugned order the directions issued by the Divisional Joint Registrar in proceedings under Section 43 of the said Act have been stayed.

2. The grievance of the petitioners is that the appeal as filed before the State Government under Section 52(B) of the said Act is not maintainable in view of the fact that the Divisional Joint Registrar while adjudicating the proceedings under Section 43 of the said Act had exercised powers that were delegated to him by the State Government itself. Despite the fact that an objection as to the jurisdiction was raised before the State Government, the same has not been considered and instead interim orders have been passed.

3. After hearing learned counsel for the parties it is seen that the objections raised by the petitioners to the tenability of the appeal preferred before the State Government require adjudication. Those objections have not yet been decided. Instead of going into those objections for the first time in exercise of writ jurisdiction, the interests of justice would be served by directing the State Government to consider those objections on their own merits and decide the same expeditiously. In fact the proceedings in the appeal itself can be expedited by directing consideration of the objection to the jurisdiction as well.

4. Accordingly the following order is passed :

(i) The respondent No.1 in both the writ petitions shall decide the appeal preferred by respondent No.3 in Writ Petition No.5933/2019 and by respondent No.4 in Writ Petition No.5113/2019 that has been filed under Section 52(B) of the said Act expeditiously and preferably within period of three months from today.

(ii) The objection as raised to the maintainability of the said appeals shall also be adjudicated. If it is found that the said Authority has the necessary jurisdiction to entertain the appeals, it shall proceed to adjudicate the same on their merits.

(iii) All rival contentions are kept open. The parties shall appear before the respondent No.1 on 27/09/2019.

(iv) In Writ Petition No.5113 of 2019 this Court has passed an interim order dated 29/07/2019. That order shall continue to operate during pendency of said appeal but without prejudice to the rights of the parties.

(v) Both the writ petitions are disposed of in aforesaid terms. No order as to costs.

JUDGE