

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5623 OF 2019

(SECRETARY, AGRICULTURAL PRODUCE MARKET COMMITTEE...VS.. VITTHAL SUBHASH
DHAWAS & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Apurv De, Advocate for Petitioner.

CORAM : Z.A.HAQ, J.

DATED : AUGUST 14, 2019.

Heard.

In this petition, the order passed by the Industrial Court directing Agricultural Produce Market Committee to regularize the services of respondent No.1-employee is challenged. In the complaint filed by the respondent No.1/employee before the Industrial Court, "Agricultural Produce Market Committee through its Chairman" was impleaded as non-applicant No.1. The Secretary of Agricultural Produce Market Committee i.e. the present petitioner was also impleaded as non-applicant No.2 initially, however, before notices of the complaint were issued, the Secretary, Agricultural Produce Market Committee was deleted. This petition is filed by the Secretary, Agricultural Produce Market Committee and surprisingly the Agricultural Produce Market Committee through its Chairman is shown as respondent No.2.

At the threshold, I expressed that the Secretary, Agricultural Produce Market Committee has no locus to file this petition inasmuch as the claim of the respondent No.1-employee before the Industrial Court was against

Agricultural Produce Market Committee and not against the Secretary. Section 12(1) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act 1963 (hereinafter referred to as “the Act of 1963”) lays down that the Agricultural Produce Market Committee shall have perpetual succession and a common seal and may in its corporate name sue and be sued.

The learned Advocate for the petitioner relied on Section 35(2) of the Act of 1963 and submitted that the Secretary of Agricultural Produce Market Committee would be competent to challenge the order passed by the Industrial Court as she is the Chief Executive Officer and the custodian of the records and the properties of the Market Committee. As per Section 35(2) of the Act of 1963, though Secretary of the Market Committee is custodian of the records and properties of the Market Committee, he can exercise only such powers as are conferred under the Act and can perform only such duties as are imposed by the Act. Similarly, as per Rule 106 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules 1967, the Secretary of the Market Committee has to give effect to the resolutions of the Market Committee and has to act under the disciplinary control of the Chairman.

In view of the above referred provisions, in my view, the Secretary of the Market Committee cannot challenge action of the Market Committee appointing the employees and similarly, unless the market committee passes resolution to challenge the order passed by the Industrial Court, the Secretary of the Market Committee will not be able to file petition and challenge that order. The Secretary of the

Market Committee can point out illegalities, if any, by the members of the market committee to the Director of Agricultural Marketing, if so advised.

Hence, as I find that the Secretary of Agricultural Produce Market Committee has no locus to file the petition, it is **dismissed** summarily. No costs.

JUDGE

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