

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4881 OF 2020

Shri. Ashok Suvalal Lalwani,
Vardhaman Trading Company
R/o. At Post Pravrasangam,
Tq. Newasa, District – Ahmednagar

PETITIONER

Versus

- 1] Shri S. R. Abhale
District Marketing Officer (DMR)
Ahmednagar
The Maharashtra State Co-operative
Marketing Federation Ltd.,
Ahmednagar
Sehkar Vaibhav, Marketing Yard Ahmednagar
- 2] Tahsildar & Taluka Magistrate,
Tq. Shevgaon, Dist. Ahmednagar,
- 3] Krushi Uttapnna Bazar Samiti Shevgaon
(Agricultural Produce Market Committee, Shevgaon)
Tq. Shevgaon, Dist. Ahmednagar
- 4] Sub Agent Sanstha Jagdamba Mahila Grahak
Sehkari Sansitha, Shevgaon,
(NAFED procurement center)
in the premises of Krushi Uttapnna Bazar Samiti
Shevgaon, Tq. Shevgaon, Dist. Ahmednagar
- 5] Prashant Vinayak Bharaat,
R/o. Near the temple of Bhagwan Baba Shevgaon
Tq. Shevgaon, Dist. Ahmednagar
- 6] Dr. Amol Eknath Fadke,
R/o. Dhangar Galli, Shevgaon, Dist. Ahmednagar
- 7] Jaywant Suresh Shelke,
R/o. In front of Ganpati Temple Shevgaon
Tq. Shevgaon, Dist. Ahmednagar

RESPONDENTS

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Mr. Sagar Ladda, h/f Mr. Kuldeep Kumar, Advocate for petitioner
Mr. P. D. Suryawanshi, Advocate for respondent No. 1
Mr. A. S. Shinde, AGP for respondent - State
Mr. V. H. Dighe, Advocate for respondent No. 3
Mr. A. N. Nagargoje, Advocate for respondent No. 4
Mr. P. A. Bharat, Advocate for respondents No. 5 to 7

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**CORAM : SUNIL P. DESHMUKH &
SHRIKANT D. KULKARNI, JJ.**

DATE : 17th JULY, 2020

ORAL JUDGMENT (PER SUNIL P. DESHMUKH, J.) :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. Petitioner is before this court seeking release of trucks bearing registration No. MH-04-CU-4520 and MH-12-AR-4141 containing bags of about 30 Metric Ton gram (harbara), detained by respondent authorities. The petitioner is a trader. Respondent No. 1 is District Marketing Officer, Maharashtra State Co-operative Marketing Federation Ltd., Ahmednagar. Respondent No. 2 is Tahsildar and Taluka Magistrate, Shevgaon. Respondent No. 3 is Krushi Utapanna Bazar Samiti, Shevgaon – Agricultural Produce Market Committee (APMC). Respondent No. 4 is sub agent (NAFED procurement center) – Jagdamba Mahila Grahak Shehkari Sanstha, Shevgaon in the premises of APMC, Shevgaon. Respondents No. 5 and 6 are the persons who purportedly submitted representation on

8th May, 2020 with respondent No. 2 – Tahsildar seeking action against the trucks / trader. Respondent No. 7 appears to be an employee of APMC, Shevgaon who is supposed to have issued communication.

3. Respondents No. 5 and 6 appear to have submitted aforesaid representation alleging that there was a foul play by petitioner in bringing aforesaid trucks on the premises of APMC at Shevgaon with a view to sell gram to NAFED procurement center to have unlawful gains.

4. Notice, in this matter had been issued in the month of May and made returnable in June. On 9th June, 2020, the court had directed the APMC to take care of the trucks and goods, directing the petitioner to produce documents showing him to be a registered trader and has purchased two truck loads of gram from marketing federation or any other institution. Parties were directed to make submissions with regard to law, under which matter can be considered. Accordingly, documents to said effect had been produced by the petitioner, which are not disputed by the respondents.

5. Affidavit in reply has been filed by respondent No. 1 on 5th June, 2020 pointing out events as occurred about lodging of representation by respondents No. 4 and 5 with respondent No. 2

and about respondent No. 2 having informed his office to take action. Explanation had been called immediately from respondent No. 4 and respondent No. 4 had disowned its concern with the trucks and the goods. Respondent No. 3 had referred to that the trucks were weighed by employee of APMC and vehicles had been parked in front of respondent No. 4 procurement center. It had referred to that respondent No. 2 had again written for taking action. Thereupon, it had written to District Deputy Registrar referring to that liability is of APMC to record entry and exit of vehicles over the premises, requesting District Deputy Registrar to direct APMC to enquire into the matter.

6. It has been referred to that while officer of the federation had visited and questioned the drivers of trucks, the drivers were not in a position to give answer for parking the trucks. Thereafter, respondent No. 4 had been directed to register offence against the truck owners. Respondent No. 4 accordingly had tried to lodge report with police for action but police authorities have not taken any action. As such, respondent No. 4 had moved Deputy Superintendent of Police, but no action had been taken and District Deputy Registrar wrote a letter and requested to register an offence and take action.

7. It has been particularly referred to in the affidavit that respondent No. 1 has neither seized nor is having custody of the trucks and goods.

8. Subsequently, another affidavit has been filed by respondent No. 1 that upon communication dated 24th June, 2020 of District Deputy Registrar, respondent No. 1 had tried to lodge report with police on 9th July, 2020. Even thereafter, no further progress appears to have been made, nor has been informed.

9. After hearing learned advocates for the appearing parties and from copies of documents, it appears, respondents No. 5 and 6 had submitted a representation to respondent No. 2 on the letter head of a political party named "*Swabhimani Shetkari Paksha*" suspecting foul play about presence of two trucks in the premises of APMC and they had purportedly interrogated the drivers and some other persons. It was reported that neither entry of the goods in the trucks had been taken nor the goods had been allocated to any trader in the premises of the APMC, Shevgaon and that the trucks were weighed on the weighing scale of the APMC and that bills with the truck drivers show that goods belonged to M/s Vardhaman Traders, Shevgaon, while there is no such firm at Shevgaon and the goods were about to be unloaded in front of NAFED procurement center – Jagdamba Mahila Grahak Sahakari Sanstha. According to

the representation, under a scheme, the State government had assured purchase of certain produce to the extent of only 9 quintal 80 kilogram at assured rates to agriculturists who cannot sale goods beyond said limit to the NAFED procurement center. Respondent No. 4 - NAFED procurement center had disowned that the goods were being brought to the center and in the circumstances *panchanama* and inquiry had been solicited.

10. Respondent No. 2 – Tahsildar on 8th May, 2020 had written to respondent No. 1 that some unauthorized activity had been imputed in the representation by nine persons. In view of the same, action was expected at the end of respondent No. 1 of drawing of *panchana*, inquiry, confiscation and immediate legal action. On 8th May, 2020, it appears, respondent No. 1 had been informed by APMC about the trucks having been parked in front of premises leased out to respondent No. 4.

11. Respondent No. 4, on the very day, had written to respondent No. 1 stating that it has no concern with the trucks and goods therein, pointing out that lot of traffic takes place in the premises of the APMC for various purposes, *inter alia*, for weighing as well.

12. It appears that there had been a communication on behalf of respondent No. 1 to respondent No. 2 – Tahsildar. In response to the same respondent No. 2 – Tahsildar, on 9th May, 2020, had written

that the goods have no concern with his office, not being for rationing, as such, not related to his office, asking respondent No. 1 to take action and decide about the same and take the trucks in custody.

13. It appears, thereafter, respondent No. 1 communicated to District Deputy Registrar, Co-operative Societies, Ahmednagar purporting to intimate presence of trucks over premises of APMC, further referring to that lot of business takes place in the APMC and, as such, requesting said authority to direct the APMC to take action and enquire into the matter. It also appears that divisional office of marketing federation had written to its general manager about the incident and about necessity of enquiry by District Deputy Registrar, Co-operative Societies or police.

14. On 13th May, 2020, it appears that there had been a communication to respondent No.1 to direct respondent No.4 to lodge a report with police against the petitioner and the trucks, accordingly, it appears that directions were issued by respondent No. 1 on the very day to respondent No.4. With reference to the same it appears, respondent No. 4 had written to police to have regard to the incident and take action. On the very day, it appears that respondent No. 1 had been informed by respondent No. 4 that police feel that action be taken from the end of the Tahsildar.

15. Petitioner had issued a notice to respondent No. 1 seeking release of the trucks from illegal detention. Said notice had been replied by the noticee on 18th May, 2020 disowning concern with the trucks and the goods.

16. On 18th May, 2020, it appears that respondent No. 4 had written to the Deputy Superintendent of Police, Ahmednagar about the incident and for action. On the very day, it appears, the District Deputy Registrar, Co-operative Societies had written as well to police for taking action in the matter. On 19th May, 2020, office of respondent No. 1 written to respondent No. 4 again for lodging of report with police. On 22nd May, 2020, respondent No. 1 had written to respondent No. 4 to submit progress in the matter. On 22nd May, 2020 itself, police had written to respondent No. 4 that the matter pertains to the office of respondent No. 1 and District Deputy Registrar.

17. Thereafter, it appears, police had written to the District Deputy Registrar to lodge first information report with details. On 24th June, 2020, District Deputy Registrar had written to District Marketing Officer – respondent No. 1 directing to take action, since the matter pertains to its office.

18. It has to be referred to that it had been informed by police to learned AGP, around June end, that offence is sought to be registered against the petitioner but communications to police do not refer to as to what inference is to be drawn, as to what kind of offence has been committed and that concerned authorities were being communicated over telephone to depute a proper person for lodging first information report with details, however, the authorities were not taking action and, thus, no FIR had been lodged.

19. Having regard to aforesaid, while the monsoon has set in and the trucks are standing idle and being loaded, condition of the vehicles would deteriorate and that of the goods, being of non-durable nature, degenerate, abating their value, it would be in the fitness of things to direct release of the trucks and the goods, however, it would be expedient that security be given by the petitioner, in case some illegality surfaces with a view to safeguard interest of the concerned.

20. In view of aforesaid, we direct, as under:

I] Trucks bearing registration No. MH-04-CU-4520 and MH-12-AR-4141 as well as the goods therein be released within a period of one week from the date of communication of this order, subject to furnishing bank guarantee of a year duration by the petitioner to the Maharashtra State Co-operative

Marketing Federation Ltd., Ahmednagar, to the tune of Rs. 12,00,000/- (Rs. Twelve Lakh) at which cost, it is said to have been purchased by petitioner.

II] File containing original documents submitted by the petitioner including licence and bills be returned to the petitioner by retaining photo copies of said documents.

III] Rule made absolute in aforesaid terms and writ petition is disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

drp/