

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14855 OF 2019

Bharat Cotton Agro Bazar,
Naigaon, through its Chairman
Digambar s/o Bhaurao Patil,
Age : 59 years, Occu. Businss,
R/o Shelgaon Road, Naigaon,
Tq. Naigaon, Dist. Nanded

PETITIONER

VERUS

1. The State of Maharashtra,
through Secretary,
Cooperation, Marketing &
Textile Department,
Maharashtra State,
Mantralaya, Mumbai – 400 032
2. Cotton Corporation of India,
through its Managing Director,
Kapas Bhavan, Plot No. 3/A,
Sector 10, CBD Belapur,
New Mumbai – 400 614
3. Director of Marketing,
Maharashtra State, Pune,
3rd Floor, New Central Building,
Pune – 411 001
4. The Union of India,
through its Secretary,
Ministry of Textiles,
New Delhi

RESPONDENTS

WITH

CIVIL APPLICATION NO.89 OF 2020
IN
WRIT PETITION NO.14855 OF 2019

The Agricultural Produce Market Committee,
 Naigaon Bajar,
 through The Upa-Sabhapati
 Shri Mohanrao Madhavrao Patil-Dhuppekar,
 Age : 71 years, Occu. Agriculture,
 R/o The Agricultural Produce Market
 Committee, Naigaon Bajar,
 Taluka Naigaon (Khai), Dist. Nanded

APPLICANT

VERSUS

1. Bharat Cotton Agro Bazar,
 Naigaon, through its Chairman
 Digambar s/o Bhaurao Patil,
 Age : 59 years, Occu. Businss,
 R/o Shelgaon Road, Naigaon,
 Tq. Naigaon, Dist. Nanded

**RESPONDENT
 (Ori. Petitioner)**

2. The State of Maharashtra,
 through Secretary,
 Cooperation, Marketing &
 Textile Department,
 Maharashtra State,
 Mantralaya, Mumbai

3. Cotton Corporation of India,
 through its Managing Director,
 Kapas Bhavan, Plot No. 3/A,
 Sector 10, CBD Belapur,
 New Mumbai – 400 614

4. The Director of Marketing,
 Maharashtra State, Pune,
 3rd Floor, New Central Building,
 Pune – 411 001

5. The Union of India,
 through its Secretary,
 Ministry of Textiles, Cooperation
 and Farmers Welfare,
 Krushi Bhavan, Rajendra Prasad Road,
 New Delhi

RESPONDENTS

Mr. V.D. Salunke, Advocate for the petitioner
Mr. G.O. Wattamwar, A.G.P for respondent No.1/State
Smt. D.S. Jape, Advocate for respondent Nos.2 and 3
Mr. S.B. Deshpande, A.S.G.I. for respondent No.4
Mr. M.M. Bhokarikar, Advocate for the applicant/intervenor

**CORAM : S.V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

**JUDGMENT RESERVED ON : 10.01.2020
JUDGMENT PRONOUNCED ON : 16.01.2020**

JUDGMENT (PER : MANGESH S. PATIL, J.) :

Rule. Rule is made returnable forthwith and with the consent of learned Advocate for the petitioner, learned A.G.P for respondent No.1/State, learned Advocate for respondent Nos.2 and 3, learned A.S.G.I. for respondent No.4 and learned Advocate for the intervenor, the matter is heard finally at the stage of admission.

2. The petitioner is a private Market Committee, registered under the provisions of the Maharashtra Agriculture Produce Market (Development and Regulation) Act, 1963 (hereinafter referred to as "APMC Act"). The respondent No.3, who is a Director of Marketing, has also issued a licence to it to purchase various commodities including cotton from the farmers. It is averred that inspite of huge production of cotton in and around Naigaon, District Nanded, respondent No.2, which is a Cotton Corporation, has not been purchasing cotton from the petitioner. Hence, this petition wherein the

petitioner is seeking mandamus directing respondent No. 2 - Cotton Corporation of India ("CCI", for short) to start procurement centre for purchase of cotton at Minimum Support Price (MSP) at the private Market Committee run by the petitioner.

3. The learned Advocate for the petitioner submits that respondent No.2 is a nodal agency appointed by the Central Government which is expected to purchase cotton from the farmers at MSP. In spite of a communication with respondent No.2 – CCI by the letter dated 07.11.2019, it has refused to purchase cotton at the yard of the petitioner on the ground that there is no facility at the petitioner's place to identify genuine farmers. In fact, respondent No.2 – CCI can very well appoint its officers to ascertain the genuine farmers who are seeking to sell their cotton at the petitioner's market yard.

4. The learned Advocate for the petitioner also demonstrated as to how, the market fees, supervision fees and the labour charges (hamali) being charged at the petitioner's centre is considerably less than those being charged at the intervenor APMC. He would submit that in view of such lesser outage, ultimately the farmers would be benefitted. The whole purpose and object of setting up of a private market committee would be lost if the cotton is not purchased by respondent No.2 CCI from the petitioner's facility.

5. The learned A.G.P. and the learned Advocate for respondent No.2

– CCI, by referring to the affidavit-in-reply filed by its General Manager, submitted that respondent No. 2 – CCI being a nodal agency of the Government of India to procure cotton with MSP, has a duty to verify that seed cotton being procured has a Fair Average Quality (FAQ) which conforms to the MSP level announced by the Government of India. Its officials remain present throughout the season at the market committees to monitor such procurement of cotton of a defined quality. The whole purpose and intent of providing for MSP without any quantitative limits is with a view to safeguard the economic interests of genuine and bona fide cotton farmers. They submit that already, respondent No.2 CCI has set up several procurement centres throughout the State of Maharashtra, including the one at Naigaon itself, barely at a distance of one and half km. from the petitioner's market yard. Therefore, the farmers from the region have been able to sell their cotton at the intervenor Market Committee, which is a Government APMC. Its officer has been deputed to the Government APMC at Naigaon centre and therefore, prompt initiative has been taken by respondent No.2 CCI to purchase cotton from the farmers of the region.

6. Lastly, they submit that respondent No.2 CCI is not under any statutory obligation to procure/purchase cotton at the petitioner's centre and therefore, no writ can be issued against it, as prayed for.

7. We have carefully considered all the above aspects. There is no dispute about the fact that the petitioner is a private Market Committee duly

licensed under the provisions of the APMC Act. There is also no dispute that respondent No.3, who is the Director of Marketing, has also authorized the petitioner Market Committee to purchase various agricultural produces directly from the farmers including cotton. However, the prime consideration in the matter in hand is the issue as to if respondent No.2 CCI is under any statutory obligation to purchase cotton at the petitioner's centre. To our query on these lines, the learned Advocate for the petitioner could not demonstrate anything to reach such a conclusion. The petitioner may be a private Market Committee duly licensed and also has a licence to purchase agricultural produces directly from the farmers. However, we could not find anything to demonstrate that respondent No.2 CCI can be compelled to purchase cotton at the petitioner's centre.

8. The learned Advocate for the petitioner also failed to demonstrate any relation or nexus between the activity of respondent No.2 Corporation and that of the petitioner, being a licensed private Market Committee entitled to purchase cotton from the farmers. In the absence of any such obligation, either contractual or statutory, we are afraid, no mandamus can be issued as prayed for.

9. Apart from the above state of affairs, it is also important to note that the Central Government has appointed respondent No.2 – CCI as a nodal agency to purchase cotton of specific variety and by fixing MSP. Obviously, respondent No.2 CCI would be under an obligation to examine the quality of

the cotton brought by the farmers. This presupposes that it has to engage the services of some of its employees to ensure that the MSP is paid only to those farmers whose cotton is of the specific quality, description and variety. The whole purpose of providing MSP is to assure the farmers of a minimum return on their produces. In order to comply with such obligation and with such an avowed object if the Government has appointed respondent No.2 CCI as a nodal agency, in our considered view, no direction can be issued to it to purchase cotton at the petitioner's centre.

10. It has been specifically mentioned in the affidavit-in-reply filed on behalf of respondent No.2 CCI that it is in order to obviate misuse of such policy of the Government that it is required to depute its officers/employees to all the centres where the cotton is to be purchased. If such is the state of affairs, directing it to procure/purchase cotton from the petitioner's centre would further put respondent No.2 CCI under an additional obligation to see to it that such officers are deputed not only at the petitioner's centre but various such other private market committees.

11. Already, it has been purchasing cotton at many centres throughout the Maharashtra State and pertinently even it has already started purchasing cotton at the Government APMC at Naigaon itself, which is barely within two kms. from the petitioner's centre.

12. It is also important to note that it is nobody's case that the

agriculturists/farmers have not been able to sell their cotton at the Government APMC at Naigaon and are being deprived of fetching MSP. The argument of the learned Advocate for the petitioner that the farmers would be benefitted more if respondent No.2 CCI purchases cotton at the petitioner's centre, though appears to be attractive, there is absolutely no material to show that any farmer is making grievance about not being able to sell cotton produced by him.

13. In view of all the aforementioned aspects, the decision of respondent No.2 – CCI not to purchase cotton at the petitioner's centre cannot be said to be illegal. There is no merit in the Writ Petition and it is dismissed. Rule is discharged. No costs.

14. Civil Application No.89 of 2020 stands disposed of.

[MANGESH S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE