

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**PIL WRIT PETITION NO.2565 OF 2005  
WITH  
NOTICE OF MOTION NO.250 OF 2016  
WITH  
NOTICE OF MOTION NO.370 OF 2018**

Janhit Manch & others ... Petitioners

Vs

State of Maharashtra & others ... Respondents

**WITH  
WRIT PETITION NO.177 OF 2014**

Ahmed Taiyeb Kapadia Trust  
through its trustees: ... Petitioners

1. Mohammed Ali Haji Ahmed & others

Vs

State of Maharashtra & others ... Respondents

**WITH  
CHAMBER SUMMONS NO.328 OF 2017  
IN  
WRIT PETITION NO.177 OF 2014**

**Mumbai Suburban Milk Producers Association ... Applicant**

**IN THE MATTER BETWEEN:**

Ahmed Taiyeb Kapadia Trust  
through its trustees: ... Petitioners

1. Mohammed Ali Haji Ahmed & others

Vs

State of Maharashtra & others ... Respondents

**WITH  
WRIT PETITION NO.826 OF 2007  
WITH  
CHAMBER SUMMONS NO.101 OF 2008  
IN  
WRIT PETITION NO.826 OF 2007**

The Bombay Milk Producers Association &  
another

... Petitioners

Vs

State of Maharashtra & others

... Respondents

Mr.Mustafa S. Doctor, Senior Advocate, with Mr.Arif S. Doctor, Mr.F.N. Pavri, Ms.P.R. Patel and Mr.K.K. Shah i/b Mulla & Mulla & Craigie Blunt & Caroe for the Petitioners in WP/826/2007 and for Respondent No.10 in WP/2565/2005

Mr.M.A. Vaid i/b Vaid & Associates for petitioner in WP/177/2014

Mr.Vivek Shiralkar i/b Shiralkar & Co., Amicus Curiae – present

Mr.H.S. Venegaonkar, Additional G.P. for State in all matters

Ms.K.H. Mastakar for MCGM, in all matters

Mr.R.V. Govilkar with Kinjal S. Jani for Respondent No.2 in WP/2565/2005

Mr.Surel Shah with Mr.R.P. Kasbekar for Respondent No.11 in WP/2565/2005

Mr.A.V. Anturkar, Senior Advocate i/b Nizam T.M. Sharif for Applicant in CHSWL/16/2017

Mr.R. S. Ahire, Cattle Controller – present

Mr.S.S. Patil, Licencing Inspector – present

**CORAM: S.C. DHARMADHIKARI &  
R.I. CHAGLA, JJ.**

**DATED: JANUARY 30, 2020**

**P.C.:**

1. In the PIL Writ Petition and the connected matters, after hearing both sides, we had passed a detailed order. Post that order of 9.12.2019, we are informed that the meeting was indeed held. After the meeting was held, the summary of the discussion and the proposals is set out in the written note which has been tendered by Mr.Vivek Shiralkar, the learned amicus curiae and Ms.Shastri, the learned Additional Government Pleader.
2. From a perusal of the same, it is evident that the first meeting, pursuant to our order, was held on 26.12.2019 and the second meeting was held on 2.1.2020.
3. The third meeting in the series was held on 13.1.2020. At these meetings, the conclusions are that the Government of Maharashtra is ready and willing to make preliminary arrangements enabling the Association to commence the dairy business.

4. The summary of the discussion is that the Government had agreed to give the land on lease basis for 30 years which would be renewable. The discussion revolved around entertaining of individual applications for allotment or allotment to cooperative societies of the concerned cattle owners. The Government expressed its view point that for the ease of allotment and the eventual management and administration of this scheme of allotment, it would be better if the cattle owners formed a cooperative society and the Government would allot the land to each such society by ensuring that the area of the land is commensurate with the business requirements of the proposed allottee/applicant. In other words, the society-wise allotment would facilitate the Government in ensuring that the land is utilised to its optimum capacity. The individual societies thereafter can form a federation so that this federation maintains common amenities and also makes arrangement for distribution of milk.

5. This is the gist of the first meeting at which the Government clarified that the requirement for commencing the dairy business is also taken into consideration. In other words, a chart is prepared of the area, which would be required for the activities at the dairy.

6. In the second meeting, the Government also invited representatives of the other departments. That is for the simple reason, namely, to make infrastructural arrangements at the site. The minimum infrastructure to be laid requires the involvement and association of the Public Works Department as also the Department of Energy, Cooperation, Industry and Labour. These Departments together with the Department of Dairy Development and representatives of the association discussed the matter. The process of completion of infrastructural development is likely to take a year. Thereafter, time would be given to the societies to construct their cattle sheds and other facilities including residential premises for the cattle owners. After the construction of the cattle sheds and other residential premises, the business operations can commence. However, a time frame should be fixed for the purpose of the construction activity. Else, after allotment, the applicant may not do anything and the infrastructural expenses incurred by the Government would be a total waste.

7. The other matters including the quantum of lease rent and when the liability to pay the rent will arise were also discussed.

8. After all these detailed discussions, eventually, the parties have agreed that the Milk Producers Association may be present at the discussions and deliberations on the broad issue. However, in order to enable the commencement of the dairy business at the site, the proposal of the State Government that the applicant instead of coming individually, should come through the cooperative society, is acceptable to them. Thus, the application will have to be made by a cooperative society of the milk producers. Even if the cooperative society is not registered, a proposed society can make the application. After the application is granted, the society should complete the process of registration. For the purpose of enabling the proposed association to make an application, it must open a bank account and deposit the minimal amount therein. This will enable the State to incur expenses for processing each application. In other words, the application money or fees accompanying the application should be the amount secured. The process of registration can be completed later on. The proposed society can make the application and the Government will duly consider this application if it is in order and take the necessary decision thereon as expeditiously as possible but within a period of three months from the date of receipt of the

same. The proposed society should obtain a registration within a period of one month from the date of the decision of the Government in its favour. Thereafter, the process of allotment can commence and after the allotment is made in favour of the society, it shall take possession and complete the construction activities at the site within a period of three years. If the plot remains unutilised despite the allotment in favour of the applicant/allottee, it will be open for the Government to resume the land. In other words, it can take physical possession of the same if there is a breach of the terms and conditions of allotment. Needless to clarify that the allotment will be on lease basis. The land would be leased by the Government in favour of the allottee and the lease agreement would be drawn up and duly executed between the parties. The lease would be for a period of 30 years but with the condition aforementioned. In other words, it will be open for the State to impose a condition that the construction should commence and be completed within three years and the actual business operations should commence within a period of two years from the date of completion of the construction activity.

9. The terms and conditions would also include an obligation to pay the lease rent in respect of the land from the date the possession is handed over.

10. The difficulty that was noted by us during the course of the previous hearings and today is about the infrastructural work to be done by the Government.

11. It is agreed that the infrastructural work would be levelling the land provided for approach road from the highway, preparing a layout and sub-dividing plots and making internal roads. The construction of an underground and overhead water tank, making provision for electricity, water, drainage and sewage and laying a plant for waste water management is the infrastructural work which the Government must carry out. We had suggested to Mr.Venegaonkar appearing for the State today and earlier Ms.Shastri that the Government cannot expect the members of the milk producers association before us and those in dairy business carrying on their activities at Mumbai and in Mumbai Suburbs to wait till the Government puts in this infrastructural work. The Government must take the requisite steps after the process of making applications for allotment commences. In other words, the

expectation from the Government is that after the minimal number of applications are received, it will make the plot or the land ready for carrying on the dairy business. That it must do expeditiously so that the process which is contemplated in the foregoing paragraphs can take a proper shape. Nothing should be wasted and that is our anxiety. Nobody should be informed that the project is shelved or abandoned because the Government has not sanctioned the necessary funds or has not granted administrative approvals. Once the minimal numbers of applications are received, then, the Government is duty bound to act in public interest and to make the infrastructural arrangements facilitating the applicant society and its members to commence and carry on the dairy business. Ultimately, the plot of land at Dapchery is identified as suitable and ideal for this business. That was kept ready for decades together. However, it was lying unused and totally unutilised. It is in these circumstances and as the public interest litigation was brought, that this Court made several suggestions. These suggestions have now been accepted by all stakeholders including the State Government. The time is now ripe for the whole scheme to be implemented. It is in these circumstances that we are happy to note that both sides have

taken a reasonable stand and approach. They have not stretched their causes beyond a limit. All of them have taken a decision bearing in mind their commercial and business interest so also the larger needs of the society. We do not expect the State Government now to back out and if this is the minimal expectation, we do not think that we would be disappointed by the State.

12. We are also emphasising that this Court has acting on this Public Interest Litigation appointed an Amicus Curiae Mr.Vivek Shiralkar, who has rendered admirable assistance to all the parties including this Court. After this Court brought the parties on the table, then, the expectation is that the efforts of not only the learned amicus curiae, the other advocates but the officials of the Government and particularly in the Ministry of Department of Dairy Development should not be wasted. We would expect the Government now to take the decision in terms of all the agreed proposals and do the needful to implement them.

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13. We are aware that this whole process is not going to be concluded overnight. However, the Government has also acted in furtherance of the discussions and issued a communication dated 16.1.2020. It is addressed to Mrs.Geeta Shastri, the learned

Additional Government Pleader. In this, after admitting that the meetings were held, discussions and deliberations ended with the abovenoted proposals, it is further stated that the District Collector, Palghar, confirmed that the land admeasuring 140 hectares has been ear-marked for shifting of the dairy business and the cattle from Mumbai city and Mumbai suburbs. The Government, however, found that the Bombay Milk Producers Association is not the only representative body and there are others in the field as well. In such circumstances, it has proposed that the allotment will not be made in favour of any individual or this association, but in favour of cooperative societies of milk producers. This scheme is on par with that implemented by this very Department in other parts of the State particularly, where dairy and milk business is flourishing. It has also been proposed that the minimal area per cattle would be the basis on which the land would be allotted on long term lease of 30 years. The Government has proposed, and in tune with what we have directed above, that within three years from the date of allotment, the allottee / applicant must complete the construction of the shed and within two years thereafter, commence the business. The very proposals, which we have noted above, have been confirmed in this communication. Thus,

the parties are *ad idem* on this arrangement.

14. We have also noted the concerns expressed by Mr.M.S.Doctor, learned Senior Counsel, on the previous occasion and that of Mr.Arif Doctor as well. They have voiced the concerns of these affected persons and reaffirmed that after a long wait, there is some solution in sight. However, there are some issues which need discussions and when they arise during the course of allotment and carrying on of cattle business. They expect that the officers will render assistance to the applicants / allottees or those carrying on the dairy and milk business. We have no doubt in our mind that the officers in charge of the Department and nodal officers so also the District Collectorate will render complete assistance to the applicants in shifting and carrying on the business from this site.

15. Since we want to ensure that the entire scheme takes effect within the time limits set in the proposals and expected by us, in the first instance, in order to test the bonafides and to ensure completion of the first phase process, we place these matters on **12.6.2020**. Finally, we direct that shifting of cattle from Mumbai and Mumbai suburbs to Dapcherry would be undertaken in a

phase-wise manner. In the first phase, the cattle from Mumbai city would be shifted to Dapcherry and in the second phase, the cattle from other Municipal areas including Kalyan Dombivali, Mira Bhayander and Thane would be carried out. We also clarify that while the cattle may be shifted from the areas in Mumbai city and municipal limits, our order and direction does not in any manner touch, muchless conclude, the issue of right, title and interest of the persons carrying on the dairy business *qua* the land. That issue will be decided independent of our directions in these matters.

16. Writ Petition No.177 of 2014 is disposed off.

**(R.I. CHAGLA, J.)**

**(S.C. DHARMADHIKARI, J.)**

Vishwanath  
S. Sherla  
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signed by  
Vishwanath  
S. Sherla  
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