

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 WRIT PETITION NO.9335 OF 2019
WITH CA/3221/2020 IN WP/9335/2019

MANISH CHETANDAS GAJBHIYE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. S.K. Kadam
AGP for Respondents: Mr.S.B. Yawalkar.
Adv. For intervenor : Mr. S.S. Wagh h/f. Mr. V.H. Dighe.

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**CORAM : SUNIL P. DESHMUKH AND
ABHAY AHUJA, JJ.**

DATE : 11th JANUARY, 2021

PER COURT :-

1] Heard learned counsel for petitioner and learned AGP for respondents No.1 to 3.

2] The petitioners have moved present writ petition seeking Mandamus to the respondents for amalgamation of the Agricultural Produce Marketing Committee (hereinafter "APMC") - Khultabad and APMC - Aurangabad, on the proposal so sent by APMC - Khultabad.

3] Learned counsel Mr. Kadam submits that though APMC Khultabad had been formed in 2002, it had been virtually defunct since inception. Administrator is appointed on the APMC. Yet, the APMC could not function in accordance with the provisions of law. . He contends that in the circumstances, either empowerment and/or

amalgamation would ensue pursuant to provisions of the Maharashtra Agricultural Produce (Development and Regulation) Act, 1963 (hereinafter, "APMC Act"). He submits that accordingly a proposal has been submitted. However, same is not being acted upon despite affidavit on behalf of respondents No. 2 and 3 refers to that, Special Auditor had opined to have amalgamation and similar report has also been made by the Assistant Registrar, Cooperative Societies. He further submits that reports are in tune with the policy of the State Government as emerging from communication referred to at page No.26, addressed by Director of Marketing Pune to the District Deputy Registrar, Aurangabad.

4] Learned counsel submits that amalgamation is required as would be appearing in communication dated 31st March, 2017 addressed to the Director of Marketing Pune, whereas, his communication dated 05-06-2017 purports to communicate that powers vest with the District Deputy Registrar, Cooperative Societies, Aurangabad.

5] Learned AGP submits that procedure prescribed under the APMC Act for amalgamation is being followed. A report has been submitted by respondent No.4, albeit it does not favour petitioner's case for amalgamation.

6] Although aforesaid are submissions, what appears to be

at the center would be Section 44 of the APMC Act, for amalgamation of the Marketing Committees, which reads thus :-

“44. Amalgamation or division of Market Committees. - (1) Where the State Government is satisfied that for securing efficient regulation of marketing of any agricultural produce in any market area, [and for ensuring the economic viability of the Market Committee], it is necessary that two or more Market Committees therein should be amalgamated or any Market Committee therein should be divided into two or more Market Committees, then the State Government may, after consulting the Marketing Committees or Committee, as the case may be, [and the [State Marketing Board]] by notification in the *Official Gazette*, provide for the amalgamation or division of such Market Committees into a single Market Committee or into two or more Market Committees, for the market area in respect of the agricultural produce specified in the notifications with such constitution, property, rights, interests and authorities and such liabilities, duties and obligations (including provision in respect of contracts, assets, employees, proceedings, and such incidental, consequential and supplementary matters as may be necessary to give effect to such amalgamation or as the case may be, the division), as may be specified in the notification.

(2) Where more Market Committees than one are established in any market area under sub-section (1), the State Government may, notwithstanding anything contained in this Act, issue general or special directions as to which of the Market Committees shall exercise the powers, perform the duties and discharge the functions of the Market Committee under this Act, in which they are jointly interested or which are of a common nature.

(3) Where any directions are issued under sub-section (2), the cost incurred by a Market Committee in pursuance of the directions shall be shared by the other Market Committees concerned in such proportion as may be agreed upon or in default of agreement, as may be determined by the State Government or such officer as that Government may direct in this behalf. The decision of the State Government or such officer shall be final.”

7] In the circumstances, it appears to be expedient that the concerned would proceed with the proposal submitted by petitioners, in respect of amalgamation of APMC Khultabad and would take appropriate decision, having regard to the facts, circumstances and law. We expect that decision would be taken sooner, preferably within a period of two months. Writ petition is disposed of in aforesaid terms. In view of disposal of Writ petition,

civil application also stands disposed of.

(ABHAY AHUJA)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE

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