

DSS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9427 OF 2021**

Madiwalappa G. Badole

...Petitioner

V/s.

The State of Maharashtra and ors.

...Respondents

Mr. S.S. Shah i/b Mr. S.K. Hande for the Petitioner.

Mr. C.D. Mali, AGP for the Respondent / State.

Mr. Abhijit Kulkarni for Respondent No.2.

CORAM : G. S. KULKARNI, J.

DATE : DECEMBER 22, 2021.

PC :

1] Not on board. Taken on board on an application moved on behalf of the petitioner.

2] The petitioner is before the Court being aggrieved by an order dated 15.12.2021 passed by the Hon'ble Minister for Cooperative, Marketing and Textile Department at Mantralaya (for short "Hon'ble Minister") allowing an appeal filed by respondent No.2's challenging an order dated 28.10.2021 passed by the Director, Marketing (for short "Director") in proceedings under Section 52 (B) of Maharashtra Agriculture Produce Marketing (Development and Regulation) Act, 1963 (for short "the Act"), whereby the Director had granted an interim stay to a resolution dated 28.10.2021 passed by respondent No.2 suspending the petitioner to constitute an

Inquiry Committee. By the impugned order, the Hon'ble Minister has allowed respondent No.2's appeal by setting aside the order dated 28.10.2021 passed by the Director.

3] The petitioner, in assailing the impugned order, contends that it is in the breach of principles of natural justice, as no opportunity of hearing was granted to the petitioner and much less a effective hearing as also no opportunity to place in writing the petitioner's case was granted.

4] Having perused the impugned order passed by the Hon'ble Minister, in my opinion, there is certainly substance in the contention as urged on behalf of the petitioner. If the Hon'ble Minister intended to set aside the order dated 28.10.2021 passed by the Director, the Hon'ble Minister ought to have granted an opportunity to the petitioner to effectively present his case by permitting the petitioner to file a reply to the appeal and then granting an opportunity of a oral hearing to the petitioner. Such course is mandatory being an essential facet of the principles of natural justice well recognized in its application to statutory adjudications. Accordingly, the impugned order cannot be sustained and it would be required to be set aside. Ordered accordingly.

5] It is quite clear from the record that the proceedings before the Hon'ble Minister have arisen from the interim order dated 28.10.2021 passed by the Director, by which, the order dated 18.9.2021 of respondent No.2 has been stayed *inter alia* to suspend the petitioner and to constitute an Inquiry Committee. Be that as it may, admittedly, the appeal filed by the petitioner before the Director under Section 52(B) of the Act is pending, it is but for natural that the Director would hear all the parties and pass appropriate final orders.

6] In the above circumstances, in my opinion, it is in the interests of justice, if the parties are relegated to the Director to be heard on the pending appeal.

7] It is informed that the pleadings on appeal are also complete. The appeal be accordingly decided by the Director, as expeditiously as possible and preferably on or before 15.1.2022. At the first instance, the parties are directed to appear before the Director on 27.12.2021 and thereafter the Director may fix a convenient date of hearing to the parties on the appeal. In the facts and circumstances of the case, it is appropriate that the inquiry ought not to proceed and it shall await till final orders are passed by the Director.

8] Needless to observe that the order dated 28.10.2021 passed by the Director shall continue to operate till final disposal of the proceeding by the Director.

9] All contentions of the parties on the pending proceedings are expressly kept open.

10] The petition is disposed of in the above terms.

(G. S. KULKARNI, J.)