

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2099 OF 2021

Prashant Narsinh Kharatmal & Ors

...Petitioners

Versus

State of Maharashtra & Ors

...Respondents

Mr Qureshi, with NP Bhavsar, for the Petitioners.

Mr PG Savant, AGP, for the Respondent-State.

**CORAM G.S. Patel &
 Madhav J. Jamdar, JJ.**

DATED: 29th November 2021

PC:-

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1. The Petitioner challenges an order dated 28th April 2021 passed by the 3rd Respondent canceling the assignment of 107 milk centres, including those of all nine Petitioners. We do not deem it necessary to enter into the controversy on merits because in an Affidavit in Reply, the General Manager, Brihan Mumbai Milk Scheme, Mumbai, one Nitin Tukaram Badgujar, has stated in paragraph 22 that there is an appellate remedy available to the Petitioners. They can challenge the decision of the General Manager before the Administrative Head of the Department, the Secretary, Dairy Development Department, Mantralaya.

2. Admittedly, the Petitioners have not availed of this remedy.

3. We will presume that the Petitioners were unaware of this remedy.

4. We will allow the Petitioners liberty to pursue the appellate avenue. We note the statement by the learned Advocate for the Petitioners that a substantive appeal on all grounds will be filed before the Secretary, Dairy Development Department, Mantralaya, Mumbai by 17th December 2021. We request the Secretary to afford the Petitioners or their Advocates an opportunity of a personal hearing and to render a reasoned decision on the Appeal as expeditiously as possible thereafter and, in any event, by 14th January 2022.

5. All contentions are expressly kept open.

6. On 18th November 2021, we were told that the matter had not been listed though it was due on that date. The order said that the ad-interim order was to continue until 3rd December 2021. On 18th November 2021 we did not have the papers with us when the matter was mentioned. Now we find that there is no previous ad-interim protection and this is readily conceded by the Advocates for the Petitioners. We note this for the record.

7. We are informed by the learned AGP that the supply of milk has not been stopped. We request the authorities not to withhold supply till the disposal of the Appeal by the Secretary.

8. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)