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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10539 OF 2018

Deepak S. Gogad	...Petitioner
V/s.	
State of Maharashtra & Ors.	...Respondents

Mr.Balkrishna D. Joshi with Mr.Virendra V. Pethe for the Petitioner.

Mrs.A.A. Purav, AGP for the Respondent Nos.1 to 3 – State.

Mr.P.N. Joshi for the Respondent No.4.

CORAM : R.D. DHANUKA &
V.G. BISHT, JJ.
DATE : 4TH MARCH, 2021.

P.C. :-

1. Heard learned counsel for the parties. The grievance made by the petitioner is that the farmers' dues are not paid by the respondent no.4 -Committee inspite of the undertaking given before the authority who had issued the notice under section 45 of the Maharashtra Agricultural Produce Marketing (Development & Regulation) Act, 1963 (for short "APMC Act").

2. Our attention is invited to an order passed by the authority on 8th June, 2018 thereby an action has been taken against the respondent no.4 under section 45 of the APMC Act on various conditions. It is the case of the petitioner that the office bearers of the

respondent no.4 – Committee had rendered various undertakings to recover the amount from defaulting traders and to pay the said amount to the farmers. It is not in dispute that the undertakings rendered by the committee members of the respondent no.4 have not been complied with by the committee members of the respondent no.4.

3. Though Mr.P.N. Joshi, learned counsel for the respondent no.4 made an attempt to canvass before this Court that several steps have been taken by the committee so as to recover various amounts from the defaulting traders and the defaulting traders have not paid the amount payable, if any, to the farmers such undertaking is not fully complied with. It is also the case of the respondent no.4 that the petitioner who is also the committee member of the respondent no.4 is harassing the other committee members and has filed this writ petition with a view to settle his personal score against the other committee members.

4. It is not in dispute that the farmers who have sold their products to the committee are not before this Court. This petition is not public interest litigation. Be that as it may, since the committee members of the respondent no.4 committed breach of the undertaking rendered before the authority given while withdrawing an action initiated under section 45 of the APMC Act, it would be in the

interest of justice if the said proceedings initiated under section 45 of the APMC Act are restored and the said order dated 8th June, 2018 withdrawing the said action is quashed and set aside.

5. We accordingly pass the following order :-

a). The District Deputy Register shall hear the committee members of the respondent no.4 including the petitioner and shall pass a fresh order on the said action initiated under section 45 of the APMC Act. If any of the committee members of the respondent no.4 are responsible for non payment to the farmers' dues, the authority shall take appropriate action against such committee members as well as against the respondent no.4.

b). Appropriate order shall be filed by the authority within eight weeks from the date of first hearing. The committee members of the respondent no.4 committee including the petitioner shall appear before the authority on 17th March, 2021 at 11.00 a.m. The authority shall also consider whether there was any violation of the undertaking rendered by the committee members of the respondent no.4 on the basis of which the said action was withdrawn and shall take action against such committee members of the respondent no.4 committee who are responsible for violation of the condition of the undertaking rendered by them on the said order dated 8th June, 2018.

- c). All contentions raised by all the parties are kept open.
- d). Without going into the issue whether this petition is maintainable or not at the instance of one of the committee member for recovery of the dues of the farmers and the petition being not filed as public interest litigation, in the interest of justice and in view of the limited issue involved, we have passed this order.
- e). The writ petition is disposed of in aforesaid terms.
- f). If any adverse order is passed by the authority, the aggrieved party would be at liberty to file appropriate proceedings in accordance with law.

(V.G. BISHT, J.)

(R.D. DHANUKA, J.)

Vasant
A. Idhol

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by Vasant A.
Idhol
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