

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.747 OF 2021

Indapur Dairy and Milk Products Limited through
Power of Attorney Holder Dhananjay Hira Galande ... Petitioner
Vs.
State of Maharashtra through Principal Secretary,
Department of Agriculture, Animal Husbandry, Dairy
Development and Fisheries and another ... Respondents

Mr. A. V. Anturkar, Senior Advocate i/b. Mr. Tejas D. Deshmukh for
Petitioner.

Mr. S. L. Babar, AGP for Respondents-State.

**CORAM : UJJAL BHUYAN &
MADHAV J. JAMDAR, JJ.**

DATE : SEPTEMBER 28, 2021

P.C. :-

Heard Mr. Anturkar, learned senior counsel for the petitioners and
Mr. S. L. Babar, learned AGP for the respondents.

2. By filing this petition under Article 226 of the Constitution of India, petitioner seeks a direction to respondent No.1 i.e., State of Maharashtra in the Agriculture, Animal Husbandry, Dairy Development and Fisheries Department to pay the petitioner its entitlement under Government Resolution dated 31.07.2018 along with interest.

3. Be it stated that petitioner is a company incorporated under the Companies Act, 1956 carrying on the business of manufacturing dairy and milk products including milk powder. It is aggrieved by the decision taken on 17.09.2019 by the Principal Secretary of the Agriculture, Animal Husbandry, Dairy Development and Fisheries Department holding that producers of milk powder like the petitioner are not entitled to export subsidy for exporting milk. However, it is the contention of the petitioner that as per the Government Resolution dated 31.07.2018, petitioner and other producers of milk powder are entitled to export

subsidy on export of milk powder.

4. Though the respondents have filed an affidavit through the Commissioner of Dairy Development justifying the decision, we are of the view that while arriving at the impugned decision dated 17.09.2019, the petitioners were not given a reasonable opportunity of hearing. That apart, we find that the Principal Secretary did not apply his own independent mind to the issue and appears to have been influenced by the views taken by other officers present in the meeting held on 17.09.2019 including that of the Financial Adviser of the Dairy Development Department.

5. That being the position we set aside the order dated 17.09.2019 and remand the matter back to respondent No.1 i.e., Principal Secretary to the State of Maharashtra, Department of Agriculture, Animal Husbandry, Dairy Development and Fisheries to give an opportunity of hearing to the petitioner and other producers of milk powder on the question of export subsidy entitlement and thereafter take a fresh decision in accordance with law.

6. Let such exercise be carried out within a period of three months from the date of receipt of a copy of this order.

7. All contentions are kept open.

8. Writ petition is disposed of.

(MADHAV J. JAMDAR, J.)

(UJJAL BHUYAN, J.)

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