

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

901 PUBLIC INTEREST LITIGATION NO.41 OF 2022

**RAJEBHAU MANIKRAO DANGAT
VERSUS
THE STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY AND OTHERS**

...

Advocate for Petitioner : Koli Sunil P.
GP for Respondents/State : Mr. D.R. Kale
Advocate for R/4 & 5 : Mr. S.S. Thombre
Advocate for R/6 : Mr. L.H. Kawale h/f. K.J. Suryawanshi
Sr. Advocate for R/7 : Mr. R.N. Dhorde i/b. Faij Khan

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**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 28th July, 2023**

PC. :-

1. Mushroom growth of PILs has now become a problem to the Courts. It often comes to our mind as to whether a PIL has really continued to be a litigation in the interest of the public or whether it has become a publicity interest litigation or a personal interest litigation.

2. On 18.01.2023, when this Court considered the submissions of the learned advocates for the appearing sides, the following order was passed:

1. An affidavit in reply has been filed by respondent Nos.4 and 5/APMC dated 23.08.2022.

2. *The learned advocate for the petitioner specifically submits that no rejoinder is necessary and the petitioner does not desire to file any rejoinder.*

3. *Insofar as the locus of the petitioner is concerned, the only description is that he is a farmer within the jurisdiction of the APMC.*

4. *Shri Thombre, the learned advocate for the APMC, raises a serious grievance as regards the maintainability of this PIL. The complaints filed by the petitioner earlier were considered at different levels including before the Honourable Minister for State. The complaints were also filed before the District Deputy Registrar. Under the orders of the District Deputy Registrar, an enquiry committee was constituted, which submitted a detailed report to the District Deputy Registrar dated 28.03.2022. Vide the said report, the committee found that the complaints filed by the petitioner were false and there was nothing objectionable in the affairs of the APMC.*

5. *Shri Thombre further submits that yet again there were complaints filed by different complainants. Two enquiry officers were appointed by the District Deputy Registrar in the form of the Assistant Registrars, Cooperative Societies, Mantha and Partur. The enquiry letters were issued to them. The APMC approached this Court in preferring Writ Petition No.5774/2022 and vide the order dated 13.06.2022, it was directed in paragraph 4 as under :-*

"a) The petitioners shall tender detailed written explanation to their respondent No.3 authority in response to the impugned notice dated 23-05-2022, on or before 30-06-2022.

b) Thereafter, respondent Nos. 4 and 5 shall consider the grounds put forth by the petitioners including the contention that they are likely to be punished twice for the same purported misconduct/misdemeanor and pass a reasoned order on or before 21-07-2022. Copies of the order shall be kept ready to be delivered to the petitioners and the parties concerned, by 03.00 pm on 21-07-2022.

c) In the event respondent Nos. 4 and 5 decide to conduct fresh enquiry under the rules, they shall

ensure that they would refrain from causing an enquiry with regard to those allegations against the petitioners which have already been dealt with by the earlier report dated 28-03-2022, in which these petitioners have been exonerated.

d) In the event an enquiry is conducted by respondent Nos. 4 and 5 on the issues which were not earlier dealt with in the earlier enquiry, they are at liberty to draw an inference on the material available and supply a copy of the report to the petitioners expeditiously.

e) The petition stands disposed off accordingly."

6. It is, therefore, the grievance of the APMC that despite the above exercise, which has been repeated on two occasions, this PIL has been filed. Shri Thombre, therefore, submits that the petitioner's bonafides should be tested by directing him to deposit at least Rs. 10 lacs.

7. Shri Dighe, the learned advocate for respondent No.7, submits that the entire procedure as is required in auctioning of plots was followed, requisite statutory permissions were taken and the auction was conducted in full public view. He, therefore, insists that the petitioner's bonafides should be tested by directing him to deposit Rs.5 lacs.

8. In the above backdrop, to test the bonafides of the petitioner, we direct him to deposit an amount of Rs. 1.50 lacs in this Court.

9. The learned advocate for the petitioner submits that he may be given one month's time to deposit the amount.

10. In view of the above, let such amount be deposited on or before 18.02.2023. After the amount is deposited, the petitioner may seek circulation in this petition.

11. We make it clear that the pendency of this petition would not amount to granting any interim orders in favour of the petitioner."

3. Pursuant to the above, the Petitioner has deposited Rs.1,50,000/- in this Court.

4. After this matter was heard extensively on 27.07.2023, the learned advocate for the Petitioner submitted that he would take instructions as to whether he desires to withdraw the Petition. Due to paucity of time, we posted the matter today for dictating orders.

5. Today, the Petitioner makes a statement that he desires that an order be passed. We preempted the Petitioner that the amount deposited by him in this Court will be forfeited, since we find that this petition lacks a public cause and on the issue raised before us, there has already been an adjudication at the behest of other persons. The Petitioner, who claims to be a Farmer, has instructed the learned advocate to state that the entire amount may be forfeited if the Court does not desire to entertain this PIL. His annual earning is stated in the petition to be Rs.1,50,000/-.

6. The Petitioner has put-forth prayer clause-B, C, D and E as under:

“B] By issuing appropriate writ, order or directions in the like nature, the Lease Deed in respect of Public Auction conducted on 20/01/2022 by Respondents No.4 and 5 - A.P.M.C. Mantha while allotting the total 74 Plots on Lease basis, situated in Land Gut Nos. 62, 125 and 128 belonging to the A.P.M.C. Mantha, may kindly be quashed and set aside.

C] By issuing appropriate writ, order or directions in the like nature, the Respondent Nos. 4 to 7 may kindly be directed not to erect or further development or construct any structure over the 74 Plots situated in Land Gut Nos. 62, 125 and 128, which are allotted on lease basis vide Public Auction dated 20/01/2022 conducted by the Respondents No.4 and 5 A.P.M.C. Mantha, Dist. Jalna.

D] By issuing appropriate writ, order or directions in the like nature, the Respondent Nos. 4 to 7 may kindly be directed not to create third party interest in regards to the Plots situated in Land Gut Nos. 62, 125 and 128, which are allotted on lease basis vide Public Auction dated 20/01/2022 conducted by the Respondents No.4 and 5 - A.P.M.C. Mantha, Dist. Jalna.

E] Pending hearing and final disposal of this Public Interest Litigation, the Lease Deed in respect of Public Auction conducted on dated 20/01/2022 by Respondents No.4 and 5 - A.P.M.C. Mantha while allotting the total 74 Plots on Lease Basis, situated in Land Gut Nos. 62, 125 and 128 belonging to the A.P.M.C. Mantha, may kindly be suspended.”

7. We have considered the submissions of the learned advocates for the respective sides and the learned senior advocate Shri R.N. Dhorde on behalf of Respondent No.7. With their assistance, we have gone through the voluminous record available.

8. The elections of the APMC were held in 2017. The tenure of the elected office bearers expired in October-2022. The issue raised in this petition pertains to earlier events. Contention of the Petitioner is that there have been several irregularities and illegalities committed by the APMC while allotting plots in land gut nos.62, 125 and 128 belonging to the APMC, through a

defective public auction that was held on 21.01.2022. The Petitioner has contended before us that he is an Agriculturist who believes in the smooth and legal functioning of the APMC. 74 plots have been allotted by public auction and such public auction has not been appropriately conducted.

9. The learned senior advocate Shri Dhorde has drawn our attention to the fact that the advertisement for the purpose of holding an auction was published in numerous newspapers like Dainik Lokmat, Dainik Parshvabhumi, Dainik Duniyadari, Dainik Punyangari, Dainik Tarun Bharat, Dainik Rajsamrat, Dainik Ramvichar etc. Dainik Lokmat, Dainik Parshvabhumi, Punyangari and Dainik Tarun Bharat have a vide circulation in the State of Maharashtra and Dainik Rajsamrat, Dainik Ramvichar and Dainik Duniyadari, are the newspapers which are published in and around Mantha Taluka. The APMC at issue is with regard to Taluka Mantha.

10. He then points out that earlier there had been an inquiry (first) that was conducted by the office of the Assistant Registrar, Co-operative Society, Jalna. The inquiry report of two Assistant Registrars, Co-operative Society, Jalna and Co-operative Society, Ambad dated 28.03.2022, running into 18 pages, has been submitted. This was on a complaint lodged by a former Member of the Maharashtra Legislative Assembly, elected from the Partur constituency, a District head of Shiv Sena Jalna, a senior leader belonging to

the Congress party and the President of the Rashtrawadi Congress Party for the Partur-Mantha Legislative Assembly Constituency.

11. We notice from the records that an inquiry (second), was conducted after some persons belonging to political parties lodged a complaint with the Hon'ble Minister for Cooperation, Marketing and Textiles. On his instructions, the second inquiry was conducted and the APMC carried out a panchanama and on perusing the record, recorded that the auction was conducted by following the due procedure.

12. In the entire petition, the Petitioner has nowhere divulged as to whether he is a voter of the concerned APMC or the concerned constituency of the Maharashtra Legislative Assembly. The whole petition only rests upon an often repeated allegation that 74 plots have been allotted by conducting a defective public auction.

13. Prior to the filing of this PIL, two Agriculturists, who also had political affiliations, preferred Appeal No.27/2022 before the Director of Marketing, Pune in June-2022. Effective prayers at clauses-C, D and E were set out as under :

“C] The Respondents No.1 and 2 i.e. Agricultural Produce Market Committee, Mantha, Tq.Mantha, Dist. Jalna, may kindly be directed not to create third party interest in the land bearing Gut

Nos. 62, 125, 128 from Survey No.42 situated at Mantha A.P.M.C. area in the interest of justice.

D] During the pendency of this appeal, the entire managing committee of the Respondents No.1 and 2 i.e. Agricultural Produce Market Committee, Mantha, Tq. Mantha, Dist. Jalna, may kindly be restrained to take policy decision and create any third party interest in to immovable property of its market committee.

E] Ad-interim relief in terms of prayer clause "D" be granted."

14. The above Appeal was preferred under Section 52 (B) of the Maharashtra Agriculture Produce Marketing (Development and Regulation) Act 1963 and the Rules thereunder. By a judgment delivered on 17.03.2023, the said appeal has been dismissed on merits. The remedy available to those appellants is to approach the Hon'ble Minister.

15. In the light of the above, it is apparent that two inquiries were conducted to verify as to whether the auction process was in order. Barring the two persons who preferred Appeal No.27/2022, no proceeding was initiated against the APMC or its elected office bearers. The entire grievance of certain persons with political affiliations, is with regard to the defective auction proceedings which have been subjected to an inquiry conducted by the Assistant Registrars Co-operative Societies, Taluka Jalna and Taluka Ambad. The Commissioner has also dealt with the said issue in the proceedings under Section 52 (B).

16. The Petitioner submits that he is a Farmer and has a right to challenge the auction proceedings. If such tendency is encouraged, each Farmer from the concerned area would prefer an independent litigation despite the fact that such issue has been dealt with. Moreover, nobody has challenged the auction proceedings which have become final. The resolution in terms of the auction which is an effective step / act on the part of the APMC, is already subjected to a legal challenge and scrutiny under Section 52(B) and the same has been negated.

17. Considering that no details have been set out in the petition, besides making bald allegations that the auction proceedings are defective and as there is no research in support of such allegations, this petition is bereft of important details. So also, at the instance of each individual, a proceeding in the same cause cannot be reopened or dealt with repeatedly. When the challenge to the resolution passed by the APMC, in pursuance to the auction process, has been dealt with by the Competent Authority under Section 52(B), we do not find that this PIL contains such material which would convince us to go into the matter.

18. In view of the above, **the PIL is dismissed.**

19. After this judgment was dictated, the Petitioner who is present in the Court has instructed the learned advocate to pray for refund of some

portion of the amount out of Rs.1,50,000/- that he had deposited. The learned advocates for the Respondents submit that these days, litigants have started exploiting/abusing public interest litigation and have a hidden agenda while approaching the Court in a PIL. It should not become a tool or a weapon to be utilised for personal vendetta or for gaining advantage either in public or political life or for self serving private purposes. They contend that no leniency deserves to be shown in this matter.

20. In view of the above, we are still taking a lenient view, since the Petitioner is a farmer and we accept the request of the Petitioner who is present in the Court and permit him to make an application for withdrawing an amount of Rs.1,00,000/-, under proper identification of the learned advocate.

21. The remaining amount of Rs.50,000/- along with accrued interest, if any, shall be donated in equal shares, to two orphanages namely Anand Gram (Infant India) Canara Bank, Pali Branch, IFSC Code: CNRB0003773, A/c No.3773201000011 and Bhavani Vidhyarthi Kalyan Pratishthan, Arvi, State Bank of India, Shirur (Kasar) Branch, IFSC Code: SBIN0005995, A/c No. 33446000963.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]