

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.6948 OF 2022

Nampur Agricultural Produce Market
Committee, Nampur

...Petitioner

VS.

Himmat Genda Pagar and Others

...Respondents

VISHAL
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PAREKAR

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WITH

WRIT PETITION NO.13245 OF 2022

Sandeep Appaji Borse and Others

...Petitioners

vs.

Nampur Agricultural Produce Market
Committee, Nampur and Others

...Respondents

Mr. P.N. Joshi i/b. Ms. Rukmini Khairnar, for the Petitioner in
WP.No. 6948 of 2022.

Mr. Vijay Killedar i/b. Mr. Pratik Ranade, for the Petitioners No.
13245 of 2022.

Dr. Abhinav Chandrachud i/b. Mr. Dinesh Adsule and Mr. Vijay
Dhakane and Mr. Raunak Jain, for Respondent Nos. 1 and 2.

Mr. P.P. Pujari, AGP for the State.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 17, 2023

P.C.:

1. Nampur Agricultural Produce Market Committee has preferred Writ Petition No. 6948 of 2022 assailing the judgment and order dated 28th April, 2022 passed by the State Government in Appeal No. 41 of 2021 whereby the order dated 22nd October, 2021 passed by the Director of Marketing, Pune and order dated 12th August, 2021 passed by the District Deputy Registrar, Cooperative Societies, Nashik were quashed and set aside by the State Government.

2. The petitioner Committee operates principal market yard at Nampur and sub-market at Karanjad, 25 km away from the principal market yard.

3. Representations were received from Agriculturists and Traders to increase the number of Hamals/ Maparis. The petitioner sent a proposal to Assistant Labour Commissioner to forward the proposal to increase the strength of Hamals by 81 and Maparis by 27. On 28th January, 2020 a proposal was submitted to the Assistant Registrar, Cooperative Societies, Satana to increase the number of Hamals and Maparis. A resolution was passed in the General Body Meeting of the committee to increase the number of Hamas by 81 and Maparis by 27.

4. The Government has issued a resolution on 12th June, 2012 constituting a Committee to determine the number of Hamals and Maparis in the Market Committee and laying down the procedure and guidelines for the same. On 5th July, 2021 a meeting of the said Committee was held. The members of the Committee expressed their views.

5. By an order dated 12th August, 2021 the Deputy District Registrar, Cooperative Societies, Nashik, respondent No. 3 was persuaded to allow 57 Hamals and 19 Maparis in addition to existing 51 Hamals and 13 Maparis in the Market Committee,

Nampur.

6. The respondent No. 1 preferred an appeal before the Director Marketing. By an order dated 22nd October, 2021 the Director, Marketing dismissed the appeal by affirming the order passed by the Deputy District Registrar.

7. Being further aggrieved, the respondent Nos. 1 and 2 filed an appeal before the State Government being Appeal No. 41 of 2021. By the impugned order dated 28th April, 2022 the Minister, (Cooperation and Marketing) was persuaded to allow the appeal and set aside, the order passed by the Director, Marketing as well as District Deputy Registrar, Cooperative Societies. The Minister, (Marketing) was of the view that the increase in the strength of Hamals and Maparis to be deployed in the Market Committee, Nampur was prejudicial to the interest of the existing Hamals and Maparis. It was held that despite the representatives of the Hamals and Maparis having expressed their reservation for increasing the number of Hamals and Maparis, the respondent No. 3 had passed the order dated 12th August, 2021.

8. Being aggrieved the Market Committee has invoked the writ jurisdiction of this Court.

9. Pursuant to the aforesaid order, the Market Committee terminated the services of the Maparis vide communication dated

27th May, 2022. The said order is assailed in Writ Petition No. 13245 of 2022 by the petitioners who were appointed as Hamals and Maparis pursuant to the increased strength of the Hamals and Maparis.

10. I have heard Mr. P.N. Joshi, learned counsel for the petitioner in Writ Petition No. 6948 of 2022, Mr. Vijay Killedar, learned counsel for the Petitioners in Writ Petition No. 13245 of 2022, Dr. Abhinav Chandrachud, learned counsel for respondent Nos. 1 in Writ Petition No. 6948 of 2022 and Mr. Dinesh Adsule, learned counsel for Respondent No. 2 in Writ Petition No. 13245 of 2022 and Mr. P.P. Pujari, learned AGP for respondent Nos. 3 to 5-State.

11. Mr. Joshi, learned counsel for the petitioner took the Court through the representations made by the agriculturists and traders seeking increase in the strength of Hamals and Maparis, the resolution passed by the Market Committee, and the proposal submitted to the authorities, the Government Resolution dated 12th June, 2012 whereunder the District Level Committee has been constituted to determine the number of Hamals and Maparis and the factors to be taken into account in determining the strength of Hamals and Maparis. Mr. Joshi referred to the volume of the agricultural produce received in Market Committee, mentioned in the resolution dated 27th January, 2020, to buttress the submission

that there was a genuine need of increased manpower. Lastly referring to the minutes of the meeting of the Committee, Mr. Joshi would urge that the increase in the strength of Hamals and Maparis was fully justified. The Minister (Marketing) could not have thus interfered with the order passed by the authorities below, submitted Mr. Joshi.

12. In opposition to this, Dr. Chandrachud, the learned counsel for respondent Nos. 1 and 2 would submit that the Committee constituted under the Government Resolution dated 12th June, 2012 was required to take a well informed decision and by majority. Laying emphasis on the views expressed by the members of the Committee in the meeting held on 5th July, 2021, Dr. Chandrachud would urge that most of the members had expressed reservations against increasing the number of Hamals and Maparis. Yet, the respondent No. 3 passed an order increasing the strength of Hamals and Maparis. The Minister (Marketing) was, thus, justified in setting aside the orders passed by the authorities.

13. I have considered the submissions advanced by the learned counsel for the parties.

14. In the light of the view which I am persuaded to take, it may not be appropriate to delve into the submissions elaborately. The material on record, prima facie, indicates that the receipt of the

agricultural produce in the Market Committee had seen an upward trend. The members of the Committee constituted under the Government Resolution dated 12th June, 2012 especially those who represented the workmen, Hamals and Maparis opposed the proposal to increase the strength of the Hamals and Maparis primarily on the ground that it would impact the income of the existing Hamals and Maparis. The issue cannot be considered only from the perspective of the impact of the increase of the strength of Hamals and Maparis on the remuneration which existing Hamals and Maparis get.

15. The necessity of additional manpower for smooth operations of the Market Committee from the perspective of the agriculturists and traders' convenience is also equally important. It does not appear that the Minister (Marketing) has considered the necessity of increase in the strength of Hamals and Maparis from the point of view of the requirement of the Market Committee. The constitution of a broad based Committee under the Government Resolution dated 12th June, 2012 appears to be with the object of taking into account the views of all the stake holders. The decision to be taken by the said Committee must address the issue of requirement of the Market Committee, on the basis of the norms prescribed in the Government Resolution. Decision can not be based only on the

numerical strength of the members who support or oppose the proposal to increase the strength.

16. In the aforesaid view of the matter, with the consent of the parties, I am persuaded to set aside the order passed by the Minister (Marketing) as well as the Director (Marketing) and remit the matter back to the Director (Marketing) to decide afresh the issue of requirement of additional Hamals and Maparis at the Market Committee, Nampur after providing an effective opportunity of hearing to the parties.

Hence, the following order.

ORDER

1] The petitions stand disposed in the following terms:

- i) The order dated 28th April, 2022 passed by the Minister, (Cooperation and Marketing) and order dated 22nd October, 2021 passed by the Director (Marketing) stand quashed and set aside.
- ii) Appeal No. 41 of 2021 stands restored to the file of Director (Marketing).
- iii) The Director (Marketing) shall decide the appeal afresh after providing an effective opportunity of hearing to all the parties as expeditiously as possible and preferably within a period of two

months from the date of communication of this order.

iv) The order dated 27th May, 2022 passed by the Market Committee, Nampur impugned in Writ Petition NO. 13245 of 2022 also stand quashed and set aside. However, the petitioners in the said petition shall not be entitled to seek the work on the basis of this order and the position as it obtains today as regards the number of Hamals and Maparis shall continue to operate till the decision of the appeal by Director (Marketing).

vi) Depending upon the decision of the Director (Marketing), the Market Committee, Nampur shall take further action in accordance with law.

vii) No order as to costs.

(N. J. JAMADAR, J.)