

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

WRIT PETITION NO.11500 OF 2023

Parag Agro Food & Allied Produ. CTS Pvt. Ltd .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

Mr.D.B. Sawnat a/w Mr.Vinayak R. Salokhe and Ms.Megha Jain for the
Petitioner.

Ms.Shruti D.Vyas, 'B' Panel Counsel for the Respondents.

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**CORAM : G.S. KULKARNI &
JITENDRA JAIN, JJ.**

DATE : 11th September 2023

P.C.:-

This petition is filed under Article 226 of the Constitution of India praying for the following reliefs:-

- (a) This Hon'ble Court be pleased to issue writ of mandamus and/or writ of certiorari or writ in the nature of mandamus and/or certiorari or any other appropriate writ or orders calling for papers and proceedings relating to the recovery of fees for issue of transport pass under Rule 19 of the Bombay Molasses Rules 1955 and after scrutinizing the validity and legality thereof the said Rule be held ultra vires and unconstitutional and be quashed and struck down;
- (b) This Hon'ble court be pleased to hold that the Notification dated 19th June 2020 is illegal and without authority of law and be struck down accordingly as beyond the scope of the Maharashtra Prohibition Act, 1949;
- (c) The Respondents be directed to refund sum of Rs.47,952/- already recovered by the Respondent No.3 towards transport fee;
- (d) Pending the hearing and final disposal of the petition, the Respondents, their officers, employees or anybody claiming through them, be restrained from recovering any fee for issue of transport pass under Rule 19 of the Bombay Molasses Rules 1955;

2. Learned counsel for the petitioner as also the learned counsel for the respondent are at *ad-idem* that the issues in this petition are covered by the decision of this Court in batch of the petitions in ***M/s.Daund Sugar Pvt. Ltd., through its Distillery Manager Vs. The State of Maharashtra*** (Writ Petition No.13720 of 2017 decided on 9th August 2023) in which similar issues were concluded when the Court had passed the following order :-

ORDER

(i) It is held that the challenge as raised by the petitioners in the present proceedings is squarely covered by the decision of the Division Bench of this Court in *M/s.VAM Organics Chemicals Ltd. (supra)* as confirmed by the Supreme Court in the proceedings of Appeal No.7126 of 2001 and in the decision of the Division Bench of this Court in *Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd.(supra)*.

(ii) The respondent/State has no authority in law to demand and recover fee from the petitioners under notifications dated 1st November 2017 and 19th June 2020.

(iii) If any amounts are collected under such notifications, the same be refunded to the petitioners within a period of ten weeks from today, for which the petitioners are permitted to make refund applications.

3. The Writ Petition is disposed of in terms of the above order passed in *M/s.Daund Sugar Pvt. Ltd., through its Distillery Manager (supra)*. No costs.

JITENDRA JAIN, J.

G.S. KULKARNI, J.