IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11826 OF 2019
WITH
WRIT PETITION NO.6177 OF 2018

Sampat Baban Nimbalkar & Anr. .. Petitioners

Versus

The Minister Co-operative Marketing &
Textile Dept. & Ors. .. Respondents

WITH
WRIT PETITION NO.6177 OF 2018

Prahlad S. Phadke .. Petitioner

Versus

The Minister Co-operative Marketing &
Textile Dept. & Ors. .. Respondents

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Mr.Vikram Chavan a/w Mrs. Shraddha Kadam i/by M/s C.K. Legal, *Advocates for the Petitioners in both Petitions.*

Mr. P.S. Dani, Sr. Adv. i/by Mr. Sandeep S. Salunkhe, *Advocates for Respondent No.2 in both Petitions.*

Mr. P.P. Pujari, *AGP for Respondent No.1, 3 and 4.*

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CORAM : SANDEEP V. MARNE, J.

DATE : 9 OCTOBER 2023

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1. Challenge in the present petition is to the Order dated 23rd November 2017 passed by the Minister- Co-operation allowing Appeal No.159 of 2016 filed by the Respondent sugar factory and setting aside the Order dated 6th June 2016 passed by the Commissioner, Sugar Maharashtra. The dispute is with regard to the decision taken by the Respondent sugar factory to deduct the amount @ Rs.230 per metric ton from the amounts payable to the members and utilizing the same for expeditious repayment of the loans obtained by the sugar factory. On account of failure on the part of the Respondent sugar factory to pay the full amount of FRP, the Commissioner, Sugar had passed Order dated 6th June 2016 directing the payment of the deducted amounts. Against that order, the Respondent sugar factory preferred appeal before Minister-Co-operation, who allowed the same by Order dated 23rd January 2017, directing that the Respondent sugar factory shall obtain individual consents of all the members with regard to the deductions so effected.

2. However, it appears that subsequently on 28th April 2017, the Minister-Co-operation has corrected the order and has deleted Condition No.3 in the earlier Order dated 23rd March 2017 which required obtaining individual consents from each members for deductions. It appears that the Petitioners have not challenged the Order dated 28th April 2017. They have challenged the earlier order of Minister dated 23rd January 2017. The learned counsel for the Petitioners would submit that there is an error in the prayer clause to the extent of not including the challenge to the Order dated 28th April 2017.

3. Be that as it may, it appears that the deduction has been effected as per the Resolution adopted by General Body of the Respondent sugar factory on 20th September 2013. Petitioners have alternate remedy of challenging the said General Body resolution.

4. The learned counsel for the Petitioners would submit that as per that resolution, the deducted amounts were to be retained by the Respondent sugar factory only for a period of five years and that despite expiry of the period of five years, the amounts are not yet refunded by the Respondent sugar factory to the Petitioners. If that is the case, the Petitioners will have to adopt the appropriate proceedings for non implementation of the Resolution dated 20.09.2013 adopted by the general body of Respondent sugar factory. Mr. Dani learned Senior Counsel appearing on behalf of the Respondent sugar factory would submit that the Administrator had been appointed in respect of the Respondent sugar factory and the Petitioners will have to approach the Administrator for implementation of the resolution in question.

5. Reserving the remedies of the Petitioners for adoption of proceedings for implementation of the Resolution dated 28th September 2013, the present petition is disposed of.

[SANDEEP V. MARNE, J]