

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14044 OF 2023

Arun Jayram Kale

..Petitioner

Vs.

State of Maharashtra & Ors.

..Respondents

Mr. Tejesh Dande, Mr. Bharat Gadhavi, Mr. Vishal Navale, Mr. Pratik Sabrad i/
b. Tejesh Dande & Associates for Petitioner.

Ms. P. N. Diwan, AGP for State.

Mr. Surel Shah i/b. Mr. Vishal T. for Respondent No.2/APMC Nashik.

CORAM : G. S. KULKARNI &
JITENDRA S. JAIN, JJ.
DATE : NOVEMBER 08, 2023

P.C.:

1. This petition is filed praying for the following reliefs:-

“(a) Record and proceedings in respect of the Dismissal Order dated 26.10.2023 and the Disciplinary Inquiry Report dated 18.10.2023 from the file of the Ld. Chairman, APMC, Nashik, may kindly be called for;

(b) After considering the legality, validity and propriety of the Dismissal Order dated 26.10.2023, this Hon’ble Court may kindly be pleased to issue writ of certiorari or any other writ, order, or direction in the like nature thereby quashing and setting aside the Dismissal Order dated 26.10.2023 passed by the Ld. Chairman of Agricultural Produce Market Committee, Nashik, in the interest of justice and equity;

(c) After considering legality, validity and propriety of the Disciplinary Inquiry Report dated 18.10.2023, this Hon’ble Court may kindly be pleased to issue writ of certiorari or any other writ, order, or direction in the like nature thereby quashing and setting aside the Disciplinary Inquiry Report dated 18.10.2023 in the interest of justice and equity;

d) Pending the hearing and final disposal of the present petition, the effect, operation and implementation of the impugned Dismissal Order dated 26.10.2023 passed by the Ld. Chairman of Agriculture Produce Market Committee, Nashik, may kindly be stayed;

e) Ad-interim relief in terms of prayer clause (d) above may kindly be granted.”

2. The petitioner who was working as Secretary of APMC, Nashik had faced an enquiry which culminated into an order of termination dated 26 October, 2023, which is the subject matter of challenge in the present proceedings.

3. We had heard the present proceedings yesterday. On the backdrop of the discussion which had taken place at the said hearing, today Mr. Surel Shah, learned counsel for the respondent-APMC is before us to state that the respondent-APMC has taken a decision that the termination order dated 26 October, 2023 issued to the petitioner would stand withdrawn forthwith, so as to give an opportunity to the petitioner to submit an explanation to the proposed penalty as per the show cause notice dated 24 October, 2023. In this regard, Mr. Shah has placed on record a communication addressed by the present Secretary of the APMC dated 08 November, 2023 to the petitioner, the original of which is handed over to the advocate for the petitioner. A copy of the said letter/ communication is taken on record. The communication records thus:-

“ The termination order dated 26.10.2023 is withdrawn only with a view to give you opportunity to submit your explanation to the proposed penalty as per show cause notice dated 24.10.2023. You are hereby called upon to submit your explanation as per the show cause notice dated 24.10.2023 within 7 days from today.

If you fail to submit your explanation within the prescribed period the committee will be free to take appropriate decision.”

4. In view of the stand as taken on behalf of the respondent-APMC, we are of the opinion that further adjudication of the petition would not be necessary. It will now be open to the petitioner to submit his reply/explanation to the show cause notice dated 24 October, 2023 which annexed the inquiry report dated 18 October, 2023.

5. The APMC shall proceed in accordance with law and after an opportunity of a personal hearing is granted to the petitioner on the show cause notice, the respondent-APMC would be required to proceed to pass appropriate orders in the facts and circumstances of the case, as per law. We, however, find that period of 7 days from today is quite short and that too in view of ensuing Diwali festival. We accordingly direct that period of 7 days as set out in the APMC’s letter addressed to the petitioner be extended to a period of 12 days, so that the petitioner would have sufficient time at his disposal to respond to the show cause notice.

6. We accordingly dispose of this petition in the above terms keeping open all contentions of the parties. No costs.

[JITENDRA S JAIN, J.]

[G. S. KULKARNI, J.]