

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1236 OF 2004

Vandana Distilleries Pvt. Ltd. & Anr.

..Petitioners

Vs.

The State of Maharashtra & Ors.

..Respondents

 Mr. Rahul Jain i/b. Alpha Chambers for the Petitioners.

Smt. P. H. Kantharia, GP for State.

**CORAM : G. S. KULKARNI &
RAJESH S. PATIL, JJ.**

DATE : JUNE 16, 2023

P.C.:

1. This petition, which is of the year 2004, was filed praying for the following substantive reliefs:-

“(a) for an order and declaration of this Hon’ble Court that the purported levy of transport fees on the Petitioners under the provisions of Rule 5 of the said Rules is ultra vires, illegal, constitutional and without authority of law and therefore void;

(b) that this Hon’ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari, or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the notification dated 12th July, 1999 (Ex-”C” hereto) and after ascertaining the legality thereof to quash and/or set aside the same;

(c) that this Hon’ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus, or any other writ, order or direction under Article 226 of the Constitution of India directing the Respondents to forthwith refund to the Petitioners the amounts collected from them as and by way of transport fees between 12th July, 1999 and 15th January, 2004 as listed in Exhibit-”E” hereto.

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(d) that the Respondents be restrained by an order and permanent injunction of this Hon'ble Court from in any manner whatsoever imposing or levying any transport free on the Petitioners under the provisions of Rule 5 of the said Rules;

(e) that pending the hearing and final disposal of the petition the Respondents be restrained by an order and injunction of this Hon'ble Court from in any manner whatsoever imposing or levying any transport free on the Petitioners under the provisions of Rule 5 of the said Rules.”

2. On the earlier occasion when the proceedings were listed before the Court on 09 June, 2023, on behalf of the petitioners, it was stated that the issue in the present proceedings would stand cover by the decision of this Court in *Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. vs. State of Maharashtra & Ors.*¹. To enable Ms. Kantharia, learned GP to take instructions, the proceedings were adjourned for today.

3. We have perused the decision of the Division Bench of this Court in *Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar Karkhana Ltd. vs. State of Maharashtra & Ors.* (supra). We are of the opinion that the challenge, as raised by the petitioners and as seen from the prayers as noted by us above, is covered by the said decision of the Supreme Court. We accordingly allow this petition in terms of the judgment and order passed in *Sahakar Maharshi Shankarrao Mohite Patil Sahakari Sakhar*

¹ 2011 SCC OnLine Bom. 616

Karkhana Ltd. vs. State of Maharashtra & Ors. (supra).

4. Disposed of in the above terms. No costs.

[RAJESH S. PATIL, J.]

[G. S. KULKARNI, J.]