

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1578/2023

The Amravati Agricultural Produce Marketing Committee (APMC), Amravati
Through its Secretary
...Versus...
Parmanand Ramavtar Agrawal and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri R.P. Joshi, Advocate for petitioner
Mrs. S.S. Deshpande, Advocate for respondent no.1
Shri N.R. Patil, AGP for respondent no.2

CORAM : AVINASH G. GHAROTE, J.

DATE : 29/03/2023

1. Heard Shri R.P. Joshi, learned counsel for the petitioner, Mrs. Deshpande, learned counsel for the respondent no.1 and Shri N.R. Patil, learned Assistant Government Pleader for the respondent no.2.
2. The order dated 14/03/2023 records the position as under :-

“The petition challenges the order dated 18/11/2022, passed by the respondent no.2 in his powers under Section 43 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (for short, “the APMC Act”, hereinafter), whereby the Resolution dated 08/09/2020 (pg.20) passed by the

Agricultural Produce Marketing Committee, Amravati, indicating the respondent no.1, to be in arrears of Cess to the tune of Rs.114.38 lakhs including interest and the communication dated 15/02/2021 calling upon him to make the payment, failing which, action under the APMC Act would be initiated, has been quashed and set aside by the respondent no.2. It is contended that where a sum is due to the Market Committee and a question arises whether it is due or not, the matter has to be referred to and decided by the Tribunal, constituted under Section 57 (3) of the APMC Act and the respondent no.2 would have no power and jurisdiction under Section 43 of the APMC Act. Section 57 (3) of the APMC Act indicates this position, considering which, issue notice for final disposal to the respondents, returnable on 27/03/2023.”

3. It is not disputed that under Section 57 (3) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (for short, “the APMC Act”, hereinafter) a Tribunal has been duly constituted, which is the District Deputy Registrar. Since the demand is made for recovery of sum due to the Market Committee, the provisions of Section 57 (1) of the APMC Act would clearly be attracted, in view of which, the remedy before the Tribunal, constituted under Section 57 (3) of the APMC Act would be the only one, which can be availed by the respondent no.1.

4. That being the position, since the impugned order dated 18/11/2022 (pg.17) has been passed not by the Tribunal, as constituted under Section 57 (3) of the APMC Act,

but by the respondent no.2, in exercise of his revisional power under Section 43 of the APMC Act, the same will have to be held to be without jurisdiction and is accordingly hereby quashed and set aside.

5. The writ petition is, therefore, accordingly allowed in the above terms. No order as to costs. It is, however, made clear it would be permissible for the respondent no.1 to approach the Tribunal, constituted under Section 57 (3) of the APMC Act for redressal of his grievance.

(AVINASH G. GHAROTE, J.)

Wadkar