

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

Writ Petition No.2755 of 2023

Abdul Naim Abdul Tahir and others

vs.

Agricultural Produce Market Committee, Chikhli & others

with

Writ Petition No.2332 of 2023

Mr. Kailesh Hariram Bhadupota (Sharma)

vs.

State of Maharashtra and others

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

Court's or Judge's Orders

Mr. Rahul Kalangiware, Advocate for the Petitioners in WP No.2755/23.
Mr. N.B. Kirtane, Advocate for the Petitioner in WP No.2332/23.
Mr. A.A. Naik, Advocate for Respondent No.1 in WP No.2755/23 & for
Respondent No.5 in WP No.2332/23.
Mr. M.V. Samarth, Senior Advocate for Respondent Nos.5 to 15 in WP
No.2332/23.
Mr. S.S. Ghate, Advocate for Respondent No.2 in WP No.2332/23.
Ms. N.P. Mehta, A.G.P. for Respondent Nos.2 & 3 in WP No.2755/23 and
for Respondent Nos.1, 3, 4 & 6 in WP No.2332/23.

CORAM : A.S. CHANDURKAR AND M.W. CHANDWANI, JJ.
DATE : 28th APRIL, 2023.

Heard.

02] The challenge raised in Writ Petition No.2332/2023 is to the order dated 19/04/2023 passed under Section 8 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (hereinafter referred to as 'the Act' for short), thereby cancelling the licences of all the petitioners that had been issued by the Agricultural Produce Market Committee, Chikhli. According to the learned Counsel for the petitioners, initially an application raising objection to inclusion of the names of the petitioners in the provisional voters list came to be raised on 01/12/2022 by the petitioner in Writ

Petition No.2332/2023. That objection came to be rejected by the District Deputy Registrar, Cooperative Societies, Buldhana on 02/12/2022. Without challenging that order, the said respondent filed a report on 06/12/2022 with Police Station, Chikhli. On the basis of that report, the Police Station Officer conducted enquiry and submitted his report on 06/02/2023 to the Administrator of the Market Committee. On that basis, the impugned order dated 19/04/2023 came to be passed cancelling the petitioners licences granted under Section 7 of the Act. It is submitted that though remedy of appeal is available to the petitioners, considering the manner in which the licences of the petitioners have been cancelled, this Court can interfere in the matter under Article 226 of the Constitution of India.

03] On the other hand, the learned Counsel for the petitioner in Writ Petition No.2332/2023 submits that objection was raised to the petitioners inclusion in the provisional voters list on 01/12/2022 and the same was rejected on 02/12/2022. That order has now been challenged in the present writ petition by amending it on 13/04/2023. The attempt of the learned Counsel is to indicate the illegalities on the basis of which such licences were obtained by the respondent No.7 to 64 on the basis of which they find place in the final voters list.

04] On hearing the learned Counsel for the parties, we find that objection to the inclusion of the names of the petitioners in Writ Petition No.2755/2023 in the provisional voters list was raised by the petitioner in Writ Petition No.2332/2023 and that objection was rejected on 02/12/2022. As a result, the petitioners' names were entered in the final voters list. The question, whether the Administrator was justified in cancelling the licences of the said petitioners, is a matter that can be raised in appeal under Section 9 read with Section 52-B of the said Act. Since the names of the petitioners are included in the final

voters list and there is no threat to their participation in the ensuing elections, we are not inclined to entertain the writ petitions. Similarly, the objection to the inclusion of the said petitioners' names in the final voters list having been raised belatedly, Writ Petition No.2332/2023 is also not liable to be entertained. In these facts, the following order will serve the interests of justice:-

- I. The petitioners in Writ Petition No.2755/2023 are permitted to challenge the order dated 19/04/2023 in statutory appeal under Section 9 of the said Act.
- II. For a period of ten days from today, no steps be taken to implement the order dated 19/04/2023. If within that period the petitioners file statutory appeals, they shall be considered on merits. The petitioners are free to seek stay in the said proceedings. It would be open for the petitioner in Writ Petition No.2332/2023 to participate in the said proceedings and object to the same. It is clarified that this Court has not examined the contentions on merits and all questions arising are kept open.
- III. With these observations, both the writ petitions are dismissed. No costs.

(M.W. Chandwani, J.)

(A.S. Chandurkar, J.)

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