

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2586 OF 2024

Agricultural Produce Market Committee Through Its Ic Secretary

VERSUS

The State Of Maharashtra Through Its Principal Secretary And Others

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Advocate for the Petitioner : Mr. Mahesh Deshmukh h/f Mr. Gite
Umesh Babanrao

AGP for Respondent/State : Mr. A.S. Shinde

Advocate for Respondent No.5 : Mr. V.D. Hon, Senior Advocate i/b Mr.
A.V. Hon

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CORAM : S.G. MEHARE, J.

DATED : MARCH 07, 2024

PER COURT:-

1. Heard the respective counsels.
2. Learned AGP waives service of notice for respondent nos.1 to 4.
3. After completing the departmental enquiry against respondent No.5, the Committee had served a notice on him to make a representation under Rule 103(1) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 (Rules of 1967 for short). The inquiring officer considered the submissions of respondent No.5 and imposed a penalty for reducing his grade. The said order was appealed and finally went to the Hon'ble Minister. The Hon'ble Minister held the punishment illegal only for want of reasonable opportunity granted to respondent No.5.

4. After hearing all the respective counsels, the Court concludes that if a reasonable opportunity, as provided under Rule 103(1) of the Rules, 1967, is not granted, the normal course is to remit the matter and restore the same stage. It must be noted here that none of the authorities held the enquiry illegal. A principle of natural justice was followed while holding the enquiry. Respondent No.5 also has no complaint about it.

5. The petitioner's learned counsel submitted that a reasonable time to make a substantial representation was not granted, and it was a violation of the principle of natural justice.

6. Considering the facts of the case, the Court is of the view that a fair opportunity to make a representation as provided under Rule 103(1) in response to the notice dated 20.03.2023 should be granted to the petitioner, without disturbing the appointment of another employee on his post.

7. The contesting respondent No.5 is present in the Court. Hence, the learned senior counsel took the instructions. Counsel for the petitioner also agrees that an opportunity to make a representation under the said Rule should be granted. However, the appointment of another employee in his place should not be disturbed.

8. In view of that matter, the following order is passed :

ORDER

- (i) Writ Petition is allowed.
- (ii) All impugned judgments and orders have been quashed and set aside.
- (iii) An opportunity is granted to respondent No.5 to make a representation in response to the notice dated 20.03.2023 as provided under Rule 103(1) of the Rules, 1967, within two weeks from today.
- (iv) After submitting the representation, the petitioner would be at liberty to make an appropriate decision by following the due procedure of law.
- (v) Needless to say, since the order imposing the punishment has been quashed, the position of respondent No.5 will be restored.
- (vi) After the punishment, the petitioner handed over the charge to another person. Therefore, respondent No.5 should not insist on restoring the charge. However, there shall be no effect on his pay scale till the decision on the inquiry report by the Market Committee about the punishment or any other decision.

(S.G. MEHARE, J.)