



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.3964 OF 2024**

Agricultural Produce Market Committee,
Shrirampur, Tq. Shrirampur, District Ahmednagar,
through its I/c Secretary,
Shri Sahebrao S/o Ramrao Wable,
Age: 45 years, Occu.: Service,
R/o: Belapur, Tq. Shrirampur,
District Ahmednagar (Cell No. 8329879283) ..Petitioner

Versus

1. State of Maharashtra,
through its Principal Secretary,
Marketing and Textile Department,
Mantralaya, Mumbai – 32.
2. Director of Marketing,
Maharashtra State, 3rd Floor,
New Central Building, Pune 411001
3. District Deputy Registrar,
Cooperative Societies, Ahmednagar,
District Ahmednagar
4. Assistant Registrar,
Cooperative Societies, Rahata,
Tq. Rahata, District Ahmednagar ..Respondents

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Mr. Mahesh S. Deshmukh h/f Mr. U. B. Gite, Advocate for
Petitioner.

Mr. P. D. Patil, AGP for Respondent Nos.1 to 4.

Mr. S. S. Thombre, Advocate for Applicant/Intervenor.

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**WITH
CIVIL APPLICATION NO.7083 OF 2024
IN
WRIT PETITION NO.3964 OF 2024**

Nanasaheb s/o Punjaji Pawar,
Age: 73 Yrs., occu. Agril.
R/o Takaliban, Tq. Shrirampur,
District Ahmednagar. ..Applicant

Versus

1. Agricultural Produce Market Committee Shriampur,
Tq. Shrirampur, District Ahmednagar,
through its In charge Secretary
Shri Sahebrao s/o Ramrao Wable,
Age: 45 Yrs., occu. Service,
R/o Belapur, Tq. Shrirampur,
District Ahmednagar.
 2. The State of Maharashtra,
Through its Principal Secretary,
Marketing & Textile Department,
Mantralaya, Mumbai.32.
 3. Director of Marketing,
Maharashtra State,
3rd Floor, New Central Bldg.,
Pune-411 001.
 4. District Deputy Registrar,
Co-operative Societies, Ahmednagar.
 5. Assistant Registrar,
CS, Rahata, Tq. Rahata,
District Ahmednagar.
- ..Respondents

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Mr. S. S. Thombre, Advocate for Applicant.

Mr. P. D. Patil, AGP for Respondent Nos.2 to 5.

Mr. Mahesh S. Deshmukh h/f Mr. U. B. Gite, Advocate for
Respondent No.1.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 26th AUGUST 2024.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. By the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court with following prayers:

“B. By way of appropriate Writ order or directions in the like nature, this Hon'ble High Court may kindly quash and set aside the impugned order dated 18/03/2024 recorded in

Roznama by the Director of Marketing, Maharashtra State, Pune, in Appeal No. 7/2024, to the extent of refusing to grant stay to the order dated 26/12/2023 passed by the District Deputy Registrar, Cooperative Societies, Ahmednagar and consequently allow the Stay Application filed by the petitioner in Appeal No. 7/2024.

C. By way of appropriate Writ order or directions in the like nature, this Hon'ble High Court may kindly quash and set aside the impugned order dated 26/03/2024 passed by the Director of Marketing, Maharashtra State, Pune, recorded in Roznama of Appeal No. 7/2024, thereby refusing to continue the 'Status Quo' order dated 18/03/2024, even, though, the petitioner made specific application on 26/03/2024 for continuation of the Status Quo order granted on 18/03/2024."

3. This Court while issuing notice to respondents vide order dated 16.04.2024 granted ex-parte interim order directing continuation of *status quo* as granted by respondent no.1 under order dated 18.03.2024. The interim relief granted is continued time to time and same is still in operation.

4. Mr. Deshmukh, learned Advocate appearing for the petitioner submits that predetermined approach of Director of Marketing-respondent no.2 can be observed in favour of dismissal of Appeal filed by the petitioner under Section 52(B) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 and Rules, 1967 (for short 'APMC Act'). By inviting attention of this Court to the affidavit-in-reply tendered on behalf of respondent nos.2 and 3, he endeavours to impress upon this Court that respondents have not only justified impugned order dated 26.12.2023, but also justified Inspection Report dated 16.02.2024 and consequential notice dated 04.03.2024. Mr. Deshmukh would, therefore, submit that the petitioner has every apprehension that Appellate Authority would not decide proceeding on merit, but likely to succumb external pressure.

5. Per contra, Mr. Thombre, learned Advocate appearing for respondent/Intervenor and learned A.G.P. for respondents/Authorities submit that present writ petition is filed with limited grievance that interim order dated 26.03.2024 was not continued in pursuance of Application dated 26.03.2024 filed by the petitioner. They would submit that respondent no.2, who is ceased with the Appeal is under obligation to decide the same in accordance with law and no presumption can be drawn that he would be biased in dealing with the Appeal.

6. Having considered submissions advanced, apparently the petitioner approached respondent no.2 by filing Appeal under Section 52(B) of the APMC Act impugning order dated 26.12.2023 passed by DDR-respondent no.3, thereby raising challenge to the order dated 26.12.2023 passed under Section 40(A) and (B) of the APMC Act. The said Appeal is still pending. The petitioner has been protected with interim order dated 16.04.2024 passed in this petition. However, fact remains that Appeal No.7/2024 filed by the petitioner before respondent no.2 under Section 52(B) of the APMC Act requires decision on merit. There is no reason to assume that respondent no.2 would not deal same on merit or would be influenced by external pressure. It is true that Mr. Sandeepkumar Prabhakar Rudraksha, Assistant Registrar, Co-operative Societies has filed affidavit-in-reply being authorized by respondent nos.2 and 3 in this writ petition and in paragraph no.13 justified order dated 26.12.2023 stating it to be legal and valid in terms of Section 40(A) and (B) of the APMC Act, but that itself would not be sufficient to draw presumption of bias against petitioner. The respondent no.2 would be under obligation to deal with all contentions of the petitioner being Quasi Judicial authority and

statement in affidavit-in-reply shall not bind him for taking decision on merit.

7. So far as consequential Inspection report dated 16.02.2024 and notice dated 04.03.2024 are concerned, they are supervening events occurred during pendency of Appeal before respondent no.2. The petitioner may take up appropriate proceeding against Inspection Report dated 16.02.2024, so also notice dated 04.03.2023, if advised. Pendency of Appeal before respondent no.2 would not be impediment for taking up such action.

8. In aforesaid circumstances writ petition can be disposed of by continuing interim protection granted by this Court under order dated 16.04.2024 till disposal of Appeal pending before respondent no.2. Hence, following order:

ORDER

- a. Writ Petition is partly allowed.
- b. Interim relief granted by this Court under order dated 16.04.2024 i.e. *status quo* under order dated 18.03.2024 by Appellate Authority shall remain in force till disposal of Appeal.
- c. The petitioner shall be at liberty to raise challenge to the Inspection Report dated 16.02.2024, so also further notice dated 04.03.2024 in appropriate proceeding as permissible under law.
- d. The respondent no.2 shall decide Appeal by granting opportunity to the concerned parties strictly on merits and in tune with the provisions of law.
- e. Writ Petition is disposed of.

f. In view of disposal of Writ Petition, present Civil Application is also disposed of.

g. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2024