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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7730 OF 2024

**M/S. NCCJ COTTON KUPPA
THROUGH VISHAL TRADING COMPANY
PROP. SUDHIP SAMPAT AARE
VERSUS
AGRICULTURAL PRODUCE MARKET COMMITTEE
THROUGH ITS SECRETARY AND OTHERS.**

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Mr. M.P. Kale, Advocate for the petitioners
Mr. A.V. Lavte, AGP for respondent/State.

CORAM : S.G. CHAPALGAONKAR, J.

DATE :- 25TH JULY, 2024.

ORDER :-

1. The petitioner impugns the order dated 8.4.2024 passed by respondent No.21 – Assistant Registrar, Cooperative Societies, Majalgaon, Dist. Beed, under Section 17 of the Agricultural Produce Market Committee Act, 1964.

2. Mr. M.P. Kale, learned advocate appearing for the petitioner submits that respondent No.1 APMC had filed application before the respondent No.21 alleging dues to be recovered from the petitioner towards Market Fees worth Rs. 14,80,463/-. Similarly, respondent Nos. 2 to 20 had submitted application to respondent No.21 alleging dues recoverable towards cotton sold to the petitioner trading company.

Consequently, proceeding was taken up under Section 57 of the APMC Act leading to impugned order.

3. According to Mr. Kale, respondent Nos., 2 to 20 have prepared false and bogus receipts. The original record of the petitioner's firm has been seized by the police during investigation of the crime. Further, respondent No.1 has also received market fees from the Government of Maharashtra as cotton purchased under CCI. As such, there were no dues towards the petitioner. However, respondent No.21, without considering the aforesaid aspects, passed the order putting huge liability on the petitioner's shoulder.

4. Section 57 of the APMC Act, particularly, sub-clause (3) is relevant for the purpose dealing with controversy involved in the present matter. Section 57 states as under :-

“57. Reference of sales due to government of market committee.

(1) Every sum due from a Market Committee to the State Government or the State Marketing Board shall be recoverable as an arrear of land revenue.

(2) Any sum due to a Market Committee on account of any charge, costs, expenses, fees, rent or on any other account under the provisions of this Act or any rule or bye-law made thereunder [or any sum due to an agriculturist for [any agricultural produce] sold by him in the market area which is not paid to him 4[as provided by or under this Act] shall be recoverable from the persons from whom such sum is due, in the same manner as an arrear of land revenue.

(3) If any question arises whether a sum is due to the Market Committee or any agriculturist within the meaning of sub-section (2), it shall be referred to a Tribunal constituted for the purpose which shall after making such enquiry as it may deem fit, and after giving to the person from whom it is alleged to be due an

opportunity of being heard, decide the question; and the decision of the Tribunal shall be final and shall not be called in question in any court or other authority.

(4) The State Government may constitute one or more Tribunals consisting of the Collector who has jurisdiction over the market area :

5. Further, Rule 119 of the APMC Rules prescribes for qualification and appointment of the Tribunal under Section 57. Same is reproduced hereinafter, for ready reference.

“119. Qualifications and appointment of Tribunal under Section 57.

- The person constituting a Tribunal under section 57 shall be either,-

(a) a person who is holding or had held the office of a Mamlatdar, Deputy Collector, Assistant Registrar or Deputy Registrar of Co-operative Societies, or Special Auditor of Co-operative Societies, for not less than three years, or

(b) a person who has, for not less than five years, been an advocate, or a pleader, or a person who had worked as a Chairman, Vice-Chairman or a member of a Market Committee or a Secretary thereof for a period of not less than five years, and who at the time of his appointment (as such) is not in any way connected with the Market Committee or with the person from whom the sum is alleged to be due.”

6. It appears that petitioner was running his business within the jurisdiction of the APMC. During the course of his business, he purchased cotton from the farmers. The APMC processed such transactions and entitle to recover fees under various heads. Petitioner failed to make payment towards purchase of cotton to farmers and realize the due of the APMC. Consequently, application under Section 57(3) was moved for recovery of dues. Respondent No.22, being competent Officer to be appointed as a Tribunal, was appointed under order dated 25.1.2022 to cause inquiry into the matter. Accordingly,

notices were issued to all concerned and record relating to transaction seized in crime was called from the Investigation Officer with permission of the Court. On examination of the record, respondent No.22 ascertained the dues of in all 19 farmers to the tune of Rs. 48,52,260/- and consequently, passed the final order. Similarly, respondent No.22/Tribunal found that amount of Rs. 14,80,463/- was due towards the APMC charges. Consequently Directions for its payment are also added.

7. There is nothing on record to show that the finding recorded by the Tribunal is contrary to record or inconsistent with the provisions of the Act and Rules. The Tribunal is empowered to entertain the application for recovery of amount. As such, there is no jurisdictional error. Particularly, on the basis of gate passes and inward payment register, it has been confirmed that the farmers have supplied the goods at a particular rate. However, petitioner failed to disburse admissible dues to them. Pertinently special provisions are made in APMC act to secure recovery of dues of farmers from traders carrying business in market area. The special mechanism is provided to secure interest of farmers. The Tribunal caused in depth inquiry to find out dues. The record of petitioner clearly demonstrate receipt of goods from farmers at particular rate but no payment has been made. Consequently, no fault can be found in the order impugned. In the result, writ petition stands dismissed.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-