



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11719 OF 2023
WITH
INTERIM APPLICATION NO. 1507 OF 2024

Parag Milks Foods Ltd. ... Petitioner

Versus

The State of Maharashtra, through Principal Secretary ... Respondents
& Anr.

WITH
WRIT PETITION NO. 10540 OF 2023
WITH
INTERIM APPLICATION NO. 1501 OF 2024

VRS Foods Ltd. ... Petitioner

Versus

The State of Maharashtra, through Principal Secretary, ... Respondents
Dept. of Agriculture and Animal Husbandry & Ors.

WITH
WRIT PETITION NO. 10543 OF 2023
WITH
INTERIM APPLICATION (St.) NO. 4077 OF 2024

M/s. S.R. Thorat Milk Product Pvt. Ltd. ... Petitioner

Versus

The State of Maharashtra, through Principal Secretary, ... Respondents
Dept. of Agriculture and Animal Husbandry & Ors.

WITH
WRIT PETITION NO. 14732 OF 2023
WITH
INTERIM APPLICATION (St.) NO. 4545 OF 2024

Govind Milk and Milk Products Pvt. Ltd. & Ors. ... Petitioners

Versus

The State of Maharashtra, through Principal Secretary, ... Respondents

Dept. of Agriculture and Animal Husbandry & Anr.

WITH

WRIT PETITION NO. 199 OF 2024

Sunfresh Agro Industries Pvt. Ltd.

... Petitioner

Versus

The State of Maharashtra, through Principal Secretary, ... Respondents
Dept. of Agriculture and Animal Husbandry & Anr.

Mr. P.B. Shah a/w. Mr. Kayval Shah for the petitioners/applicants.

Dr. Birendra Saraf, Advocate General a/w. Ms. Shruti D. Vyas, Addl. G.P.
and Ms. P.J. Gavhane, AGP for the State.

**CORAM: G. S. KULKARNI &
 FIRDOSH P. POONIWALLA, JJ.**
DATED: 28 February, 2024

P.C.

1. We have requested the learned Advocate General to appear in the present proceedings considering the prayer of the petitioners to be treated at par with one Indapur Dairy and Milk Products Ltd., who has been granted an amount of Rs.24,87,50,000/- which was an amount as quantified by the Commissioner, Dairy Development, Government of Maharashtra in the communication dated 26 May, 2022 as addressed to the Principal Secretary. It appears that such order was passed consequent to the Principal Secretary passing an order dated 4 March, 2022, which *inter alia* made the operative directions as contained in paragraphs 1 to 5 of the said order (Pages 441 and 442).

2. As the amounts were not received by Indapur Dairy and Milk Products Ltd., it had approached this Court in Writ Petition No. 1819 of 2023, on which

an order dated 20 March, 2023 came to be passed *inter alia* making the following directions:

“5. For the present, we direct the State Government to act on the order of 4th March, 2022 without delay in regard to the principal amount stated in that order. We leave the question of interest pending for the present. That order is to be implemented and the amount disbursed by 24th April, 2023.”

3. Thereafter, on the said proceedings, a further order dated 26 April, 2023 was passed by the co-ordinate Bench of this Court, wherein the Court directed that the payments be made to Indapur Dairy and Milk Products Pvt. Ltd. as per the decision dated 4 March, 2022 as noted in the earlier order. The relevant paragraph of the said order reads thus:

“4. We are fully unable to understand how the Finance Department can purport to sit in Appeal over Principal Secretary, Dairy Development. We trust that the Finance Department is not saying that it has the authority to sit in appeal over a Division Bench of this Court, or for that matter any Judge of this Court. Yet that is precisely what seems to be suggested because paragraph 4 of the Interim Applications says that if the Finance Department approves the file then two months is required for a disbursement. There is no if. There is no but The Finance Department is not authorize to decide whether or not to approve the file, whatever that is supposed to mean. The Finance Department is supposed to clear a file within the time permitted by the Court and act in accordance with orders of this Court. The application for an extension of two months is rejected. Payment will be made in accordance with our 20th March, 2023 order and in terms of the amounts at Exhibit “L” at page 81 of the petition no later than by 10th May, 2023. If that is not done, we will proceed to enforce our order if necessary in contempt.”

4. As noted above, the State Government accepting the aforesaid directons, an amount of Rs. 24,87,50,000/- was paid by the State Government to Indapur Dairy and Milk Products Ltd. and more particularly, in the light of

such observations and directions made by the Court in paragraph 4 of the order dated 26 April, 2023 passed by the Division Bench. On such backdrop, the petitioners are before us contending that the petitioners are similarly positioned as Indapur Dairy and Milk Products Ltd. The petitioners contend that the petitions would stand covered under the decision as contained in the orders dated 26 May, 2022 (Exhibit-G) passed by the Commissioner, which has been given effect and acted upon under the orders of the Court. We also find that there are other entities similarly placed like that of the petitioners and the total disbursement to these persons is Rs.48,26,63,400/-.

5. From what is contained in the order dated 26 May, 2022 (Exhibit “G”) and what has been held by the co-ordinate Bench of this Court by the order dated 26 April, 2023, more particularly in paragraph 4 of the said order, in our *prima facie* opinion the petitioners would be correct in their contention that the petitioners would also become entitled for payment of the amount as quantified against their name in communication dated 26 May, 2022.

6. The learned Advocate General shall take instructions on the stand of the State Government in regard to the payment to be made to the Writ Petitioners.

7. List the proceedings on **13 March, 2024 (H.O.B.)**

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)