



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

WRIT PETITION NO.1598 OF 2016

1. Krushi Utpanna Bazar Samiti,
Gangapur Market Yard,
Gangapur.
Through its Chairman/ Sabhapati.
2. Secretary,
Krushi Utpanna Bazar Samiti,
Gangapur Market Yard,
Gangapur.

...PETITIONERS

-VERSUS-

1. M/s Devidas Ramrao Sarovar,
through its Proprietor
Vasantrao Ramrao Sarovar,
Age : 51 years, Occ: Business,
R/o Nutan Colony, Gangapur.
2. Smt. Sumanbai w/o Devidas Sarovar,
Age : 75 years, Occ : Business,
R/o Nutan Colony, Gangapur.
3. Kacheshwar Vinayakrao Rothe,
Age : 45 years, Occ : Business,
R/o Nutan Colony, Gangapur.
4. Govind Devidas Sarovar,
Age : 27 years, Occ : Business/ Service,
R/o Nutan Colony, Gangapur.
5. The Assistant Registrar,
Cooperative Societies, Gangapur,
District Aurangabad.

...RESPONDENTS

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Shri Harish S. Adwant, Advocate h/f Shri S.V. Adwant, Advocate for the Petitioner/ APMC.

Shri C.R. Thorat, Advocate for Respondent Nos.1 to 4.

Ms. V.N. Patil Jadhav, AGP for Respondent No.5/State.

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CORAM : PRAFULLA S. KHUBALKAR, J.

Reserved on : 25th March, 2025

Pronounced on : 08th May, 2025

JUDGMENT :-

1. Heard.

2. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

3. The instant petition filed by the Petitioner-Agricultural Produce Market Committee, Gangapur, (for short, hereinafter referred to as 'APMC') raises challenge to the order dated 16.11.2015 passed by respondent No.5- Assistant Registrar, Cooperative Societies, Gangapur, allowing the appeal under Section 9(a) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (for short, hereinafter referred to as 'the APMC Act') filed by respondent Nos.1 to 4/

licencees.

4. By the impugned order, respondent No.5 Assistant Registrar has inferred that the applications for renewal of licences submitted by respondent Nos.1 to 4 were although beyond the time prescribed by law, however, considering the fact that the amount of arrears of licence fees was not refunded by the Petitioner APMC, the applications for renewal of licences were required to be accepted considering the provisions of clause (5-A) of Rule 6 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 (for short, hereinafter referred to as 'the APMC Rules').

5. Brief facts leading to the filing of the instant petition are stated below:-

(a) Respondent Nos.1 to 4 had licences for working as commission agents on the premises of the petitioner AMPC until 2014-2015.

(b) The petitioner APMC had published the public notice dated 10.02.2015 calling upon all the licencees to apply for renewal of their licences by completing formalities on or

before 28.02.2015. The notice also mentioned the date of delayed submission as 31.03.2015. Respondent Nos.1 to 4 have not submitted any application before these dates.

(c) On 15.04.2015, respondent Nos.1 to 4 submitted their applications seeking renewal of their licences.

(d) On 07.05.2015, the petitioner APMC rejected the applications of respondent Nos.1 to 4 on the ground of their failure to submit the applications in time, in prescribed format along with necessary documents and fees.

(e) Respondent Nos.1 to 4 challenged the rejection of their applications for renewal by filing common appeal before respondent No.5 Assistant Registrar.

(f) By the impugned order dated 16.11.2015, respondent No.5 rejected the appeal filed by respondent Nos.1 to 4.

(g) Feeling aggrieved by this order, the petitioner APMC has filed the instant petition.

6. Advocate Shri Harish S. Adwant holding for Advocate Shri S.V. Adwant for the petitioner APMC has made vehement submissions by primarily contending that the impugned order passed by respondent No.5 Assistant Registrar is without jurisdiction since the power to decide the appeal under Section 9(a) of the APMC Act lies with the Director, who is not authorized to sub-delegate the power. Another limb of his contention is that the application for renewal cannot be entertained beyond the time limit provided by Rule 6(5-A) of the APMC Rules. He submits that since the advertisement provided the last date as 28.02.2015 and it also mentioned the date of delayed submission as 31.03.2015, therefore, there was no question of issuing directions to accept the application beyond this date. He further submits that only because the amount of Rs.8200/- deposited by each of respondent Nos.1 to 4 was not refunded by the petitioner APMC, could not be a circumstance to conclude that respondent Nos.1 to 4 became entitled for condonation of their lapses. In support of his submission that there cannot be any sub-delegation, he relies on the judgments of the Honourable Supreme Court in the matters of ***A.K. Roy and another vs. State of Punjab and others, (1986) 4 SCC 326*** and

Sahni Silk Mills (P) Ltd. And another vs. Employees' State Insurance Corporation, (1994) 5 SCC 346. In support of his submission that the impugned order is without jurisdiction, he relies on the judgment in the matter of ***Joint Action Committee of Airline Pilots' Association of India (ALPAI) and others vs. Director General of Civil Aviation and others, (2011) 5 SCC 435.***

7. *Per contra*, Advocate Shri C.R. Thorat for respondent Nos.1 to 4 vehemently submits that respondent No.5 has properly appreciated the purport of the provision of Rule 6(5-A) of the APMC Rules and the imposition of late fee of 10% per day of default is in tune with the said rule. He submits that respondent Nos.1 to 4 have been working as commission agents of the petitioner APMC since 1970-71 and are entitled for continuation of their licences. He submits that the petitioner APMC has adopted hyper-technical approach while rejecting their applications by communication dated 07.05.2015. He submits that the impugned order is passed on the basis of an independent enquiry through the Divisional Officer as reflected from the impugned order and it needs no interference.

8. Advocate Ms. V.N. Patil-Jadhav, learned AGP for respondent No.5, by referring to the affidavit in reply dated 03.02.2025 justifies the impugned order. She submits that as per the Government notification dated 05.09.1981, the powers under Section 9(a) of the APMC Act have been delegated to the Assistant Registrar, Cooperative Societies. She, therefore, opposes the objection about the authority and jurisdiction of respondent No.5.

9. Rival contentions thus fall for my consideration.

10. Primary contention of the petitioner is based on Rule 6(5-A) of the APMC Rules which provides specific dates as 28th or 29th February of every year as the date for submission of application for renewal of licence. This rule also empowers the APMC to accept the application beyond the last date on payment of late fee at the rate of 10% of the licence fee per day of default. In the instant case, the advertisement specifically provided 28th February, 2015 as the last date for submission of application for renewal, which is in consonance with Rule 6(5-A). The advertisement also provided the date of delayed payment as 31.03.2015, which is also in consonance with the date for

payment of late fee at the rate of 10% of licence fee per day of default. Thus, it becomes clear that no application for renewal could have been entertained beyond 31.03.2015. In the instant case, respondent Nos.1 to 4 submitted their applications for renewal on 15.04.2015 and although claimed to have deposited the amount towards their dues for transactions of 2014-2015 and licence renewal fees of 2015-2016, this cannot be considered to have conferred a right in them to claim renewal of their licences. Pertinent to note, Rule 6(5-A) empowers the Market Committee to accept the applications beyond the time subject to deposit of late fees and the direction to accept the renewal applications beyond the date granted by the Market Committee amounts to foisting the licencees upon the APMC. Rule 6(5-A) confers a discretion on the Market Committee to accept delayed applications, which cannot be termed to be a right of licensee to submit delayed application only because of readiness to pay late fee at the rate of 10% per day of licence fee. The impugned order allowing the appeal of respondent Nos.1 to 4 subject to condition of 10% late fee of the licence fee, amounts to foisting the licencees i.e. respondent Nos.1 to 4 upon the petitioner APMC.

11. It is also surprising to see that respondent No.5 Assistant Registrar has relied on some enquiry alleged to have been conducted by the Divisional Officer Shri B.M. Navthar considering some statements of the bank officials regarding deposit of money by respondent Nos.1 to 4. Reliance on such enquiry, which appears to be unilateral, cannot be made the basis to conclusively determine that the amounts deposited by respondent Nos.1 to 4 were towards arrears of licence fees or other dues. The impugned order does not reflect that the petitioner APMC was involved in the enquiry and had any opportunity to participate in it. Only because respondent Nos.1 to 4 were found to have deposited some amounts, respondent No.5 got swayed away to conclude that even though the amounts were not deposited in time, although the delay is attributed to respondent Nos.1 to 4, by invoking powers under Rule 6(5-A) the delay is condoned. On the basis of this reasoning, the impugned order directs renewal of licences with retrospective effect. The impugned order, therefore, defeats the purport of Rule 6(5-A) of the APMC Rules.

12. As regards the issue of jurisdiction of respondent

No.5 Assistant Registrar, the appellate powers under Section 9(a) are with the Director, which are alleged to have been delegated by the notification dated 05.09.1981. Perusal of the notification dated 05.09.1981 shows that the powers of the Director have been delegated to the District Deputy Registrar, Cooperative Societies and also to the Taluka Assistant Registrar of Cooperative Societies. On a specific query in this regard, the learned AGP, on instructions from the competent authority, submits that the powers under Section 9(a) of the APMC Act are exercised by the District Deputy Registrar and also by the Taluka Assistant Registrar of Cooperative Societies depending upon categorization of place as district place or taluka place. The learned AGP submits that both the authorities have powers. Although the petitioner APMC has raised the objection about sub-delegation of power, however, no such grievance was raised before respondent No.5 Assistant Registrar and as such, this contention need not be considered.

13. The position of law as reflected in the judgments relied upon by the petitioner APMC is not disputed. It is also not disputed that those who are delegated with powers, cannot

delegate and particularly when the sub-delegation is not contemplated under the APMC Act. In view of the fact that the controversy revolves around Rule 6(5-A) of the APMC Rules, the issue of jurisdiction of respondent No.5 Assistant Registrar vis-a-vis notification of 1981 need not be considered.

14. In the light of the above mentioned factual and legal aspects, the impugned order is unsustainable in law and it deserves to be quashed and set aside. Hence, I pass the following order:-

(a) The Writ Petition is allowed.

(b) The impugned order dated 16.11.2015 passed by respondent No.5 Assistant Registrar is quashed and set aside and consequently, the appeal filed by respondent Nos.1 to 4 before respondent No.5 stands dismissed.

(c) No order as to costs.

15. Rule is made absolute in the above terms.