



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7399 OF 2024
WITH
REVIEW APPLICATION (CIVIL) NO.194 OF 2025

Nagesh S/o Narsimalu Gandewar }
Age-49 years, Occ. Business, }
R/at Narsinha Bhavan, Gandhi Chowk, }
Bhokar, Talua-Bhokar, District-Nanded } **Petitioner**

Versus

1. The State of Maharashtra }
Thr. The Secretary, Department of }
Marketing, Mantralaya, Mumbai-400 032 }

2. The Director of Marketing }
Central Building, Pune }

3. The Chairman }
Dr.Shankarrao Chavan, }
Agricultural Produce Market Committee, }
Bhokar, Taluka-Bhokar, District-Nanded. }

4. The Vice Chairman }
Dr.Shankarrao Chavan, }
Agricultural Produce Market Committee, }
Bhokar, Taluka-Bhokar, District-Nanded. }

- 5. Dr.Shankarro Chavan** }
 Agricultural Produce Market Committee, }
 Bhokar, Taluka-Bhokar, District-Nanded. }
- 6. The District Deputy Registrar Co-** }
operative Societies, Nanded }
 District-Nanded }
- 7. Shri.Avinash Balaji Amilkanthwar** }
 Age-34 years, Occ: Business, }
 R/.Shivshankar Hardware, Kinwat Road, }
 Bhokar, Taluka-Bhokar, District-Nanded }
- 8. Shri.Kisanrao Dattaramji Kshirsagar** }
 Age-30 years, Occ: Business }
 R/o.Shivshankar Hardware, Kinwat Road, }
 Bhokar, Taluka-Bhokar, District-Nanded }
- 9. Shri.Santosh Laxmanrao Uttarwar** }
 Age-50 years, Occ: Business, }
 R/o.Shivshankar Hardware, Kinwat Road, }
 Bhokar, Taluka-Bhokar, District-Nanded }
- 10. Shri.Balaji Marotrao Hone** }
 Age-58 years, Occ: Business }
 R/o Parle's Agency, Nava Mondha, Bhokar, }
 Taluka-Bhokar, District-Nanded }
- 11. Gajanan M/o Madhavrao Panewar** }
 Age-35 years, Occ: Business, }
 R/o Prathamesh Seeds & Pesticides, Kinwat }
 Road, Bhokar, Taluka-Bhokar, District- }
 Nanded. }

WITH
WRIT PETITION NO.10122 OF 2024

Vishambhar Gopal Pawar	}	
Age-38 years, Occ. Agriculture & Member	}	
of Managing Committee of Krushi	}	
Utpanna Samiti Bhokar,	}	Petitioner
R/at Bhokar, Talua-Bhokar, District-	}	
Nanded.	}	

Versus

1. The State of Maharashtra	}
Thr. The Secretary, Department of	}
Marketing, Mantralaya, Mumbai-400 032	}

2. The Director of Marketing	}
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3. The Chairman	}
Dr.Shankarrao Chavan,	}
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Bhokar, Taluka-Bhokar, District-Nanded.	}

4. The Vice Chairman	}
Dr.Shankarrao Chavan,	}
Agricultural Produce Market Committee,	}
Bhokar, Taluka-Bhokar, District-Nanded.	}

5. Dr.Shankarro Chavan	}
Agricultural Produce Market Committee,	}
Bhokar, Taluka-Bhokar, District-Nanded.	}

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operative Societies, Nanded	}
District-Nanded	}
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 Age-35 years, Occ: Business, }
 R/o Prathamesh Seeds & Pesticides, Kinwat }
 Road, Bhokar, Taluka-Bhokar, District- }
 Nanded. }

Mr. V. D. Salunke h/b. Mr. B. N. Patil, Advocate for the
 Petitioner in Writ Petition No.7399 of 2024.

Mr.Kolsepatil, for the Petitioner in Writ Petition No.10122 of
 2024.

Mr. S. N. Kendre, AGP for Respondent Nos.1, 2 and 6-State.

Mr. V. D. Hon, Senior Advocate along with Mr. A. V. Hon and
 Mr. S. S.Kote, Advocates for Respondent Nos. 3 to 5 and 7 to 11

CORAM : R.M. JOSHI, J.

DATE : 26th NOVEMBER 2025

ORAL JUDGMENT :-

. By consent of both sides heard finally and as both Petitions involve similar question of facts and law and they are decided by this common judgment.

2. Writ Petition No.7399 of 2024 takes exception to the order dated 13th June 2024 passed by the Director of Marketing, Pune in Appeal No.39 of 2023 under Section 52 of Maharashtra Agricultural Produce Market Committee (Development & Regulation) Act, 1963 ('APMC Act' for short) rejecting the Appeal filed by the Petitioner, wherein there was challenge raised to the process of allotment of five commercial galas. Whereas Writ Petition No.10122 of 2024 challenges the same process directly by filing this Petition.

3. The facts which led to the filing of this Petition can be narrated in brief as under:-

Marketing Committee, APMC, Bhokar, allotted some land to Kharedi Vikri Sangh, Umari ('Sangh' for short), Bhokar

and shops were constructed thereon by sangh. These shops were leased out to the lessee. Two shops were let out to the Petitioner and his father. It seems that, some dispute arose between Sangh and APMC, Bhokar and since, there was an attempt to evict the tenant, Civil Suit bearing RCS No.55 of 2022 came to be filed before the Competent Court. Interim relief was granted by the Civil Court, which was set aside in the Miscellaneous Appeal filed by Committee. Writ Petition filed challenging the said order bearing No.6452 of 2023 was withdrawn with liberty to file Review Application. The Petitioner, however, did not prosecute the Civil Suit and according to him for the reason that he was assured for the allotment of the shop. The suit therefore came to be dismissed.

4. It is further case of the Petitioner that, taking advantage of the dismissal of the suit the Committee took possession of the premises on 27th May 2021. Thereafter, Committee had sought permission of Director of Marketing for leasing out five commercial galas under Section 12(1) of the Act. By order dated 23rd September 2021 the permission was granted

with certain conditions.

5. The auction notice was published in Marathi Daily Lokmat which is a local newspaper having circulation in the area of Marathwada. However, the auction was not held as per the said notice. On 5th November 2023 another notice was issued, but in daily Loksatta, Mumbai Edition. By the same notice it was informed that, the Applications were invited from 28th October 2023 to 2nd November 2023. In this regard however, the corrigendum came to be issued on the next date intimating the date of auction as 15th November 2023. It is case of the Petitioner that, the proclamation was not affixed on the shops till 14th November 2023 and no auction took place on 15th November 2023 as it was a holiday on the eve of Bhaubeej. According to the Petitioner though the Committee issued letter dated 11th November 2023, intimating change of date, which was received by the District Deputy Registrar, Nanded ('DDR' for short) on 23rd November 2023 and resultantly neither DDR nor his representative was present during the alleged auction conducted on 16th November 2023. It is claimed by the Petitioner that,

Director of Marketing had imposed conditions of publication of notice in widely circulated newspapers and the process of auction was to be undertaken in presence of DDR. It is claimed by the Petitioner that, the said conditions are not complied and the entire process of auction was conducted in unfair manner. It is further claimed by the Petitioner that, in order to sought convenience of few people, the notice was not published in widely circulated newspaper in the area and person participated in the auction were either family members or closely related to each other. On these amongst other contentions Petitioner preferred Appeal under Section 52B of the Act before the Director of Marketing, Pune, by filing Appeal No.39 of 2023. The Petitioner has a grievance that, the Appeal was rejected on the ground that the Petitioner has no *locus standi* and that Committee has received more than the valuation fixed by the Sub-Registrar, Grade-I, by order dated 13th June 2024. The Petitioner made positive statement that, he has ready to pay an amount of Rs.20 lakhs for the shop of size 11 x 25 feet and has also shown his readiness to deposit the said amount in the Court.

The Petitioner in Writ Petition No.10122 of 2024 seeks challenge to the process of auction on the ground that, the same has not been done in accordance with the conditions imposed by the Director of marketing in order dated 23rd September 2021.

6. The learned counsel for the Petitioners submits that, it was obligatory on the part of the Committee to carry out process of auction strictly as per the conditions imposed by the Director of Marketing by order dated 23rd September 2021. According to them amongst other conditions the publication of notice was required to be done in a newspaper having wide circulation and the process of auction was to be undertaken under the supervision of the DDR. It is argued that, the *malafide* intention of the Respondents is apparent from the fact that, the initial notice was issued in daily Lokmat which has circulation in the region whereas the subsequent notice was issued in daily Loksatta, Mumbai Edition, which has no circulation in Marathwada region. It is argued that, entire intention of the publication of notice in the said newspaper was to ensure that public at large would not come to know about the same and

selected persons are benefited by it. It is further argued that, amongst 28 persons who said to have responded to the notice and participated in the auction are relatives or acquaintances of each other and hence, it cannot be said that, members of public at large participated in the said process. It is further pointed out that, though there is letter dated 11th November 2023 addressed to DDR, however, the said letter is admittedly received by DDR on 23rd November 2023 and hence question of he remaining present in the auction process did not arise. It is argued that, there was non-compliance of the mandatory conditions imposed by the Director of Marketing in conducting the auction. With regard to the order impugned it is argued that, the Director of the marketing has failed to take into consideration these aspects and has erred in rejecting the Appeal on the ground of *locus standi*. On these amongst other contentions exception is taken to the impugned order as well as the process of auction.

7. The learned Senior Counsel appearing on behalf of the contesting Respondents submits that, both Petitioners have no *locus standi* to challenge the process of auction. It is his

submission that, since the Petitioner in Writ Petition No.7399 of 2024 did not participate in the auction, he has no right to challenge the same and other Petitioner being signatory to resolution cannot be heard now. It is contended that, this Petitioner has shop nearby to the premises in question and hence it cannot be said that, he had no knowledge of the auction and it's process. It is further argued that, as many as 28 persons participated in the auction process which is more than sufficient to indicate knowledge of people at large of the notice published in the newspapers. It is submitted that, the contesting Respondents have deposited the amounts and obtained possession of the respective premises in the year 2023 itself and hence there would be no justification to set aside the process.

8. The learned AGP supported the impugned order as well as the process in question he drew attention of the Court to the original record which is placed before this Court for its perusal, which according to him indicates that, the conditions were duly complied with and in absences of any loss shown to have been caused to the Committee, there would be no

justification to entertain the Petitions.

9. At the outset, this Court would like to make it clear that, the Court is not required to take cognizance of the contentions of Petitioners with regard to his alleged forcible eviction and acquisition of the promises by Committee. The said issue is not a subject matter of the present Petition and hence no findings are recorded thereon. Insofar as the auction of five commercial galas by Committee is concerned, admittedly, under Section 12(1) of the Act permission was sought from Director of Marketing and such permission was granted on 23rd September 2021. Apart from other conditions, two conditions in the said order assume relevance. There was direction for publication of notice of auction in the newspaper having maximum circulation and that the process of auction was required to be conducted under the supervision of DDR. Needless to say that these conditions were to ensure conduct of transparent process of auction and opportunity is extended to all eligible persons to bid. Consequence of the higher number of bidders would be fetching of higher price.

10. In this regard, perusal of the record indicates that, notice was issued in daily Lokmat recording intention of auctioning the concerned premises. No doubt the said newspaper has wide circulation in the area of Marathwada including Bhokar but no auction was conducted pursuant to this notice. Later on for unexplained reason a notice came to be published in daily Loksatta, Mumbai Edition. It is specifically claimed by the Petitioner that, this newspaper has no circulation in Bhokar so also in Marathwada region. To support this submission the information received under the Right to Information Act, is placed reliance on. In this regard, it is necessary to note that, once such objection is raised, it was the burden would be on the Respondents to indicate that, the said newspaper has circulation, if not, wide circulation in Marathwada region. There is absolutely no evidence on record to indicate so. Thus, it can be safely said that the people of region were not aware of such auction.

11. Secondly, the process was required to be conducted under the supervision of DDR. Even if it is accepted that, the

date of auction on 15th November 2023 fell on the day of Bhaubeej, which was holiday and hence, the auction was postponed i.e. on 16th November 2023. There is no evidence to show that, the DDR was intimated about the same in time. Though, a letter dated 11th November 2023 is placed on record which is addressed to DDR, the acknowledgment thereon shows that, the said letter was received by the DDR on 23rd November 2023. It is therefore clear that, there was no intimation to DDR before conducting of auction on 16th November 2023. Moreover, from record as well as from statement made by learned AGP, neither DDR nor his representative was present during auction and therefore there is breach of conditions imposed by Director of Marketing.

12. The above two conditions no doubt were mandatorily required to be followed by the Committee while conducting the auction of the premises, and this becomes more relevant, in view of the fact that, the Petitioner was able to show that, out of alleged 28 persons participated in the auction process, number of persons are from one family and others are acquaintance or

closely related to each other. This cannot be called as a sheer co-incident in order to ignore the same. The said fact supports the allegations made by the Petitioner with regard to the process of auction being rigged. The intention of the Committee of publishing the news with regard to the process of auction in daily Loksatta cannot be construed as innocent act and in facts of the case this Court has no hesitation to hold that, the publication of news with regard to the process of auction in daily Loksatta was not *bona fide*. In any case, publication of notice in the newspaper which has no circulation in Bhokar has led to the situation that the people in the area at large were not even made aware of the said auction. Even, if it is accepted that, the amount lease rent received by the Committee is more than the upset price, it has certainly caused even financial loss to the Committee because in case more persons would have participated in the process, there was every likelihood of fetching more price by the Committee. This becomes more relevant in view of the fact that, the one Petitioner not only offers Rs.20 lakhs for one gala but also shows his intention to deposit the said amount in this Court.

13. The Director of Marketing though was called upon to pass the order in an Appeal filed by the Petitioner, without recording any evidence as to why there is justification of publication of the news in daily Loksatta instead of local newspaper which has wide circulation in the area. Apart from this, Appeal is also rejected on the ground that, the Petitioner is not license holder trader nor has participated in the process of auction. In this regard, it is pertinent to note that, the notice issued with regard to the auction was not restricted to the licensed traders but it was open for all traders in agricultural market produce to participate in said auction. The Director of Marketing therefore committed serious error in rejecting the Appeal on these grounds. Similarly, one more reason recorded for the rejection of the Appeal is dismissal of Civil Proceedings so also withdrawal of Writ Petition before this Court. Pertinently the said proceedings were not initiated for challenging the process of auction but were respect of the alleged forceful removal of the Petitioner from the premises in question. Thus, in any case, the dismissal of the previous proceedings would not have become a

ground for rejecting Appeal.

14. For the aforesaid reasons, since the process in question is contrary to the conditions imposed by the Director of Marketing in order dated 23rd September 2021 and there is ample material on record to hold that, the process was rigged and which has ultimately resulted not only into denial of opportunity of participation to the public at large but also having caused financial loss to the Committee, the same deserves to be set aside. Consequently, the allotment in favour of the contesting Respondent also cannot be sustained and shall be set aside with consequential action to follow. No prejudice will be caused to the Respondents by conduct of new auction as it would be open for them to participate therein.

15. In view of above, both the Petitions are allowed in terms of Prayer Clause (C), which reads thus :

(C) That by making rule absolute, the Judgment and order dated 13.06.2024 passed by the respondent No. 2 in Appeal No. 39 of 2023 and the auction sale held by the respondents No.3 to 5 in respect of 5 shops located at Kinwat Road Bhokar be kindly quashed and set aside and the respondents no. 2 to 6 be directed to hold re-

auction of the shops by following due procedure of law and in a transparent manner.

16. The learned Senior Counsel appearing on behalf of the contesting Respondents seeks stay of this order for the period of six weeks.

17. The learned counsel for the Petitioner opposed the request.

18. In view of the fact that, the contesting Respondents are in possession of the premises in question, in order to give opportunity to them to take exception to the order passed by this Court before Hon'ble Supreme Court, the order stands stayed for the period of six weeks.

19. In view of disposal of Writ Petitions, all pending Applications are disposed of.

(R.M. JOSHI, J.)