



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

WRIT PETITION NO. 339 OF 2025

The Chairman, Agricultural Produce
Market Committee And Another

.. Petitioners

Versus

Purbhaji Marotrao Kanode Ardhapurkar And Others .. Respondents

Mr. Suraj R. Bagal, Advocate h/f Mr. B. N. Gadegaonkar, Advocate for
the Petitioners.

Mr. G. R. Syed, Advocate for Respondents.

CORAM : KISHORE C. SANT, J.

DATED : 07th MAY, 2025.

P C. :-

. Heard learned advocate Mr. Bagal holding for learned advocate
Mr. Gadegaonkar for the petitioners and learned advocate Mr. Syed for
the respondents.

2. The petitioners have challenged the judgment and order passed
by the learned Member, Industrial Court, Jalna in Complaint ULP No.
21/2021. The respondents/original complainants had approached the
Court seeking benefits of permanency and praying for direction to the
petitioners to cease and desist from unfair labour practice. It is the
case of the respondents that they were appointed by the petitioner –
APMC on daily wages as clerks. They have worked continuously for

more than 240 days in a year. The work is of permanent nature. The appointments were made on clear vacant posts sanctioned by the authority. In spite of this, they are deprived of the benefits of permanency. The complaint therefore was filed for violation of Item Nos. 5, 6, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971. The learned Member, Industrial Court recorded the findings that respondents have proved that they were appointed on clear vacant posts. They have worked for 240 days. The work is of permanent nature. On holding all these, the complaint came to be allowed. The petitioners have therefore approached this Court.

3. The learned advocate Mr. Bagal for the petitioners vehemently argued that, the learned Member failed to appreciate that the respondents were not appointed by following due process of law. There were no permanent vacancies available. The work is not of permanent nature. He thus submits that, the learned Member has committed illegality by allowing the complaint. He submits that, there is statutory limitation on the power of APMC. No appointment can be made for more than six months in view of Rule 100 (5) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967. When the appointment itself is not legal, he submits that, there

was no question of giving benefits to the respondents. He therefore prays for quashing and setting aside the order passed by the learned Member, Industrial Court.

4. On the other hand, learned advocate Mr. Syed for the respondents submits that, the complainants have adduced evidence before the Industrial Court. The Industrial Court was satisfied with the evidence. It is rightly held that the complainants were appointed by the petitioners. The work is of permanent nature and that they have completed 240 days in a year. He submits that, by way of impugned order the petitioners were only directed to send proposal of the complainants to the Director of Marketing, Pune for consideration of approval. It is only thereafter the permanency is to be granted. He submits that, now there is already a proposal sent by the authorities to the appropriate authority. He submits that, when now the proposal is sent pursuant to the order, the petition is not liable. He submits that, no case is made out to allow the writ petition.

5. This Court has gone through the impugned judgment and order. It is seen that, the finding is arrived at by relying upon the evidence. The complainant No. 2 namely Punjram was examined in support of the complaint. This Court has also considered as to whether the proper procedure was followed. In the evidence of the complainant it has

come that, appointments were given for a period of six months after some break. He has also accepted that the petitioners have no power to depute an employee and to give permanency. The respondent/witness accepted that there were 41 posts vacant out of which 34 posts were filled in and seven posts were vacant. He has accepted the dates of appointment of the complainants. It is seen that, the learned member has considered this evidence and drawn the conclusion that the complainants have made out a case for grant of approval and it is only thereafter the order is passed. Now, it is pointed out that the proposal sent by the petitioners to the Director of Marketing is sent back by communication dated 06.01.2023 stating that, the authority to sanction the post is given to the District Deputy Registrar in view of the rules. It was directed to send proposal to the said authority. It is now submitted that, now the proposal is sent to the District Deputy Registrar. The District Deputy Registrar has sent back the proposal to the petitioners pointing out certain defects. It is directed to cure the defects and to send fresh proposal.

6. This Court thus finds that, the petitioners on one hand have challenged the order in the petition and also trying to comply with the order passed by the learned Industrial Court. As observed by this Court in forgoing paragraphs that the learned Member has considered the

evidence and on considering the evidence has passed the order. It has come in the evidence of the respondent that there were seven posts vacant out of 41 sanctioned posts.

7. In view of this, this Court does not find any illegality or perversity in the order passed by the learned Member, Industrial Court. This Court, therefore, is not inclined to cause interference with the impugned order.

8. The writ petition stands dismissed. No order as to costs.

9. The authorities are expected to act as early as possible on the proposals.

(KISHORE C. SANT, J.)

PS.B.