



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

WRIT PETITION NO. 10727 OF 2023

Dhule Hamal Mapadi Kamgar Sahakari
Patpedhi Limited, Dhule
Market Yard, Dhule
Through its Secretary
Bhagwat Bacchuba Chitalkar
Age 44 years, Occu. Labour,
R/o. Plot No.39, Maniknagar,
Dhule, District Dhule

.. Petitioner

Versus

1. The State of Maharashtra
Through the Secretary for
Food, Civil Supply and Consumer
Protection Department,
Mantralaya, Mumbai
2. The Collector, Dhule,
District Dhule
3. The District Supply Officer,
Dhule, District Dhule

.. Respondents

**WITH
CIVIL APPLICATION NO.15208 OF 2023
IN WRIT PETITION NO. 10727 OF 2023**

India Agro Farms Co-operative Society Ltd.,
Through its Chairman/Secretary,
Devkabai w/o. Nathu Patil,
Age 58 years, Occu. Labour
R/o. Shop No.25, Khanderao Mandir Road,
Shirpur, Tq.Shirpur, District Dhule

.. Applicant

Versus

1. The State of Maharashtra
Through the Secretary for
Food, Civil Supply and Consumer
Protection Department,
Mantralaya, Mumbai

2. The Collector, Dhule,
District Dhule
3. The District Supply Officer,
Dhule, District Dhule
4. Dhule Hamal Mapadi Kamgar Sahakari
Patpedhi Limited, Dhule
Market Yard, Dhule
Through its Secretary
Bhagwat Bacchuba Chitalkar,
Age 44 years, Occu. Labour,
R/o. Plot No.39, Maniknagar,
Dhule, District Dhule .. Respondents

**WITH
CIVIL APPLICATION NO.11896 OF 2023
IN WRIT PETITION NO. 10727 OF 2023**

Hamal Mapadi and Malwahatukdar
Sahkari Sanstha Maryadit, Shirpur,
Through its Chairman/Secretary,
Bhavsahab Rawan Patil (Deore),
Age 58 years, Occu. Labour,
R/o. Old Bhampur, Post Bhamte,
Tq. Shirpur, District Dhule

Versus

1. The State of Maharashtra
Through the Secretary for
Food, Civil Supply and Consumer
Protection Department,
Mantralaya, Mumbai
2. The Collector, Dhule,
District Dhule
3. The District Supply Officer,
Dhule, District Dhule
4. Dhule Hamal Mapadi Kamgar Sahakari
Patpedhi Limited, Dhule
Market Yard, Dhule
Through its Secretary
Bhagwat Bacchuba Chitalkar,
Age 44 years, Occu. Labour,
R/o. Plot No.39, Maniknagar,
Dhule, District Dhule .. Respondents

**WITH
CIVIL APPLICATION NO.11691 OF 2024
IN WRIT PETITION NO. 10727 OF 2023**

Mata Vaishnavi Devi Hamal Kamgar
Sahakari Sanstha Limited
At Chimthane, Tq. Sindhkheda,
District Dhule
Through its Chairman/Secretary
Gopal s/o. Dilip Mali,
Age 30 years, Occu. Business,
R/o. At post Chimthane, Tq. Sindhkheda,
District Dhule

.. Applicant

Versus

1. Dhule Hamal Mapadi Kamgar Sahakari
Patpedhi Limited, Dhule
Market Yard, Dhule
Through its Secretary
Bhagwat Bacchuba Chitalkar,
Age 44 years, Occu. Labour,
R/o. Plot No.39, Maniknagar,
Dhule, District Dhule

2. The State of Maharashtra
Through the Secretary for
Food, Civil Supply and Consumer
Protection Department,
Mantralaya, Mumbai 400 032

3. The Collector, Dhule,
District Dhule

4. The District Supply Officer,
Dhule, District Dhule

.. Respondents

Mr. V. D. Hon, Senior Advocate instructed by Mr. A. V. Hon,
Advocate for Petitioner in W.P.No.10727/2023 and Respondent No.4
in CA/15208 and 11896/2023 and Respondent No.1 in CA/11691/
2024;

Mr. Ujjwal S. Patil, Advocate for Applicant in CA/15208/2023

Mr. Amol S. Sawant, Advocate for Applicant in CA/11896/2023;

Mr. Ajay D. Pawar, Advocate for Applicant in CA/11691/2024;

Mr. A. S. Shinde, Additional Government Pleader for Respondents
No.1 to 3/State in Writ Petition and CA/15208 and 11896/2023 and
Respondent No.2 to 4/State in CA/11691/ 2024

**WITH
WRIT PETITION NO. 8543 OF 2024**

India Agro Farms Co-operative Society Ltd.,
Through its Chairman/Secretary,
Nathuthu S/o. Dhoman Patil,
Age 72 years, Occu. Labour,
R/o. Shop No.25, Khanderao Mandir Road,
Shirpur, Tal. Shirpur, District Dhule .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary for
Food, Civil Supply and Consumer
Protection Department,
Mantralaya, Mumbai
2. The Collector, Dhule,
District Dhule
3. The District Supply Officer,
Dhule, District Dhule
4. Mata Vaishnav Devi Hamal Kamgar Co-operative
Society Ltd., Through its Chairman/Secretary,
R/o. Chimthana, Tal. Shindkheda,
District Dhule .. Respondents

Mr. Ujwal, S. Patil, Advocate for Petitioner;
Mr. A. S. Shinde, Additional Government Pleader for Respondents
No.1 to 3/State;
Mr. V. B. Patil, Advocate for Respondent No.4

**CORAM : S. G. MEHARE &
SHAILESH P. BRAHME, JJ.**

**RESERVED ON : 30-01-2025
PRONOUNCED ON : 12-02-2025**

JUDGMENT (PER : S. G. MEHARE, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally with consent of the learned senior counsel for the petitioner, the learned A.G.P. for the State and the learned counsels for the applicants.
2. The common questions of facts and law are involved in these petitions. Therefore, we propose to decide them by common order.
3. The petitioner in Writ Petition No.10727 of 2023 seeks writ of certiorari to quash and set aside the communication dated 02.08.2023, whereby it has been communicated to respondent No.2/the District Collector, Dhule, by respondent No.1 / the Secretary for Food, Civil Supplies and Consumer Protection Department that in Government Resolution dated 08.05.2018, if the earlier contract is over, that contract may further be given to same agency. However, Government Resolution dated 06.03.2023 was issued and certain provisions have been adopted from Government Resolution dated 08.05.2018. It has been opined that in both Government Resolutions, there is no provision for allotting contract to the *Patpedhi* i.e. credit society. The another prayer in this writ petition is, issue a writ of mandamus against respondent No.2/ Collector, Dhule to consider the representation made by the petitioner, dated 21.06.2023 in view of the Government Resolution dated 06.03.2023 and for granting extension to the period of tender to the petitioner. He also prayed to direct the respondents

to permit him to participate in the tender process published by respondent No.2, on 23.08.2023.

4. The applicants, in Civil Applications No.11896 and 15208 of 2023, were the societies participated in the tender process in question. They have raised objections that earlier tender process was not in consonance with the Government Resolution dated 12.09.2014. The earlier tender process was carried as per the Government Resolution dated 08.05.2018. Therefore, the petitioner cannot claim the benefit of extension of tender period. It has also been pleaded that pursuant to the tender notice, technical bid was opened on 20.10.2023 and wrongly decided that as per order dated 29.08.2023 in this Writ Petition, the tender process was stayed by this Court and further decision has been stalled. In nut shell, it has been submitted that the petitioner is not entitled to its extension. The applicants/societies are parties interested and the participants in the tender. They are entitled to intervene in the petition.

5. By way of another Civil Application No.11896 of 2023, the objection has been raised that the petitioner is not the society entitled to tender in past. However, inadvertently the tender was granted. The petitioner is not the society as defined under the Maharashtra Co-operative Societies Act, 1960 and Rules, 1961 (for short, "the Act"). Its a credit society. Therefore, as per the

Government Resolution, the tender cannot be extended further. It also participated in the tender process. As per clause 5 (17) of the bye-laws, the petitioner/society is not entitled to participate in the present tender process. Only the registered Hamal Kamgar Co-operative Societies are entitled to participate in the tender process. The earlier tender granted to the petitioner/society was in contravention of the Government Resolution dated 12.09.2014. The applicant/society prayed that they are the business interested. Hence, entitled to intervene.

6. Civil Application No.11691 of 2024 has been filed by the applicant/society. It is contended that, the petitioner/society who has been granted ad-hoc tender till the stay order passed in this Court is adjudicated on merit. It has not participated in the tender process. However, by way of civil application, it came with a case that the credit society is not entitled to participate in the tender process. Hence, nothing survive in the petition. If the writ petition is allowed, the work order issued in its favour would be affected. However, the petitioner/society is not claiming any substantial relief. It is just opposing the writ petition. It did not specifically claim that it deserves continuation of the tender. It is not participant in the tender process. The applicant/society is an ad-hoc contractor to meet the requirement. Therefore, we are of the opinion that the applicant/society has no right to intervene. Hence, Civil Application No.11691 of 2024 stands rejected.

7. The applicant/society in Civil Application No.11896 of 2023 has also filed independent writ petition No.8543 of 2024. It has come with a case that the respondent No.2/ the Collector, Dhule issued notice dated 23.08.2023 inviting tender. It has participated in the tender process. It was not impleaded as respondent party in writ petition No.10727 of 2023. It reiterated an opinion of the technical re-tender bid and wrong interpretation of order dated 29.08.2023. He impugned the ad-hoc tender granted to respondent No.4 by order dated 10.07.2024 and prayed to quash and set aside communication dated 10.07.2024 and also seeks quashment of communication dated 01.02.2024 staying the tender process for allotment of tender. It has prayed for a direction to complete the process of tender in question.

8. Mr. Hon, learned senior counsel for the petitioner has vehemently argued that the petitioner was the society registered under the Act. The petitioner's earlier tender for loading and unloading the grains was accepted. The said tender was for three years and that period is likely to over. Hence, it applied for extension/continuation of the contract as the petitioner expressed willingness to continue with the earlier contract as per the terms of the Government Resolution. He referred to the Government Resolution dated 06.03.2023 and pointed out clause (2) which is about to the extension of the tender. The further extension would be for three years. He also read clause 12(1) of the said

Government Resolution, which states about the priority to be given to the persons named therein. As per the said clause, first preference is given to the registered porters' co-operative society, of which the members are Hamal (porters). Clause 12(2) speaks of preference given to the registered unemployed co-operative society, if the society under Clause 12(1) is not ready to participate in the tender. He would submit that in other districts the similarly situated societies have been given extension. Therefore, it is apparent discrimination. The opinion expressed about kind of the society of the petitioner was explained in detail. However, the authority has incorrectly interpreted the Government Resolutions dated 08.05.2018 and 06.03.2023. He also referred to the bye-laws of the society and submit that the society of the petitioner holds eligibility to participate in the tender. Though the petitioner/society was entitled, the extension has not been deliberately granted and by way of impugned communication, he has not been held eligible to get contract in question. Therefore, the impugned order deserves to be called back.

9. The learned A.G.P. would submit that the jurisdiction of the society is restricted to the district only. He would refer to impugned communication dated 02.08.2023 and argue that it was in consonance with Government Resolutions dated 08.05.2018 and 06.03.2023. The petitioner/society is not the society eligible to participate in the tender in question. It is being *Patpedhi* / credit

society, its object is altogether different. It is a commercial society. The earlier tender was contrary to the above Government Resolution. The communication dated 02.08.2023 is an internal communication not affecting the petitioner's right. Since the society of the petitioner is the credit society, it cannot take advantage of the orders granting extension to the society granted by another District Collectors.

10. Mr. Sawant, learned counsel for the applicant (one of the participants) has vehemently argued that as per Section 8 of the Act read with Rule 4 of 1961 Rules and Clause 13, the petitioner is credit resource society. He also referred to Rule 8 Clause (1) and Rule 10 of the Rules. Section 2(25) of the Act defines "resource society" means a credit society, the object of which is obtaining for its members of credit, goods or services required by them. Referring to the bye-laws of the petitioner/society, particularly clause 17, he would submit that the petitioner is not the society eligible to participate in tender and for extension. The communication dated 02.08.2023 has clarified that in the Government Resolution dated 06.03.2023 and clauses 12(1) and 12(2). It has been clarified, who is entitled to participate in tender in question. He relied on certain case laws, those will be discussed in the later part.

11. The argument of Mr. Patil, learned counsel for the petitioner is supporting to the argument of Mr. Sawant. He has referred to

the dates of opening the technical bid, issuing of fresh tender notice. He has serious grievance about keeping the tender process pending under the wrong interpretation of the *interim* order passed by this Court.

12. So far as Civil Application No.11691 of 2024 is concerned, we have already expressed taken a need that the applicant/society has no right to intervene.

13. The case revolves around the eligibility of the petitioner to participate in the tender process as well as extension of earlier tender. Undisputedly, earlier the tender was given to the petitioner. The provisions for extension of the tender are specified in the Government Resolution dated 06.03.2023. However, by the impugned communication referring to the clauses 12.1 and 12.2, it has been opined that in both Government Resolutions, there was no provision to grant tender to the *Patpedhi* / credit society. The terms of eligibility to participate in the tender have been made known to all. The petitioner has placed on record the bye-laws of the society registered. The title of the society is “Dhule Hamal Mapadi Kamgar Sahakari Patpedhi Limited, Dhule”. The society of the petitioner has been classified as “resource society and credit resource society”.

14. Section 2(25) of the Act defines “resource society”. It means a society, the object of which is obtaining for its members of

credit, goods or services required by them. Rule (4) speaks about application for registration and registration fees. The fees for different societies has been prescribed therein. In that Rule, resource society has to pay specified fees.

15. Rule 10 further provides classification and sub-classification of societies. Various societies are classified as per Rule 10. In that Rule, the resource society is sub-classified as credit society. In that Rule, the example of society following the clause or sub-clause has also been described. The resource society falls in sub-class, (a) credit resource society, (b) non-credit resource society and (c) service resource society.

16. Quoting relevant Sections of the Act and Rules, Mr. Sawant, learned counsel has correctly pointed out that the object of the petitioner/society is contrary to the above Government Resolutions. He has placed on reliance of ***Jayprakash Raosaheb Salunke and others vs. State of Maharashtra and others, 2000(3) Mh.L.J. 714.*** Paragraph No.8 has been referred to. In this case, it has been held that the provisions of the bye-laws are not statutory in nature and they do not have an overriding effect on the provisions of the Rules. Reading the case law, the learned counsel for the petitioner/society has raised an objection that the tender cannot be accepted.

17. Mr. Sawant, learned counsel for the applicant/society has

referred to the judgment of ***The Co-operative Central Bank Ltd. And others Vs. The Additional Industrial Tribunal, Andhra Pradesh and others, 1969 (2) Supreme Court Cases***

43. The issue before the Hon'ble Supreme Court was to interpret the words "the business of the society", and whether bye-laws of the co-operative society have force of law. It has been held that the bye-laws may be binding between the persons affected by them but they do not have the force of statute.

18. After having gone through the requisite condition for eligibility to participate in Government Resolutions dated 08.05.2018 and 06.03.2023, there is no reason to doubt the eligibility of the petitioner. The material placed on record establish that it is the resource society which is in category of the credit society. The object of granting tender to the Hamal (Porter) is to be fulfilled by allotting in the contract of loading and unloading of food grains to the societies of which members are Hamal (Porter). It is apparent that earlier tender extended to the petitioner was due to wrong interpretation of the Government Resolution. It has been established that the petitioner/society being the resource society/credit society not eligible to participate in the tender process as well as not eligible to seek extension as per the terms of the Government Resolution dated 26.03.2023. We do not find substance in the petition.

19. In view of the above, Writ Petition No.10727 of 2023 stands dismissed. All civil applications are disposed of in above terms.

20. Writ Petition No.8543 of 2024 is pertaining to the ad-hoc arrangement made by the Government till the dispute is decided by this Court and granting ad-hoc contract to respondent No.4. Since the order impugned before this Court was stayed, it was a time gap arrangement to fulfill the object of the tender. No relief as prayed can be granted in view of the effect of the decision of Writ Petition No.10727 of 2023. Hence, the writ petition stands dismissed.

21. The respondent No.2 / Collector, Dhule is at liberty to proceed with the tender process, according to law.

22. Rule stands discharged.

[SHAILESH P. BRAHME]
JUDGE

[S. G. MEHARE]
JUDGE

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