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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4073 OF 2025

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Basavraj Mallesha Bagale

... Petitioner

V/s.

The State of Maharashtra, through
Chief Secretary, Marketing Dept.,
& Ors.

... Respondents

Mr. Akshay Kapadia i/by Mr. Gurubala Birajdar for the
petitioner.

Mrs. P.J. Gavhane, AGP for respondent Nos.1 to 3-
State.

Mr. Bhushan Walimbe with Mr. Mayank Tripathi for
respondent No.4.

Mr. Abhijit Kulkarni for respondent No.5 (through V.C.)

CORAM : AMIT BORKAR, J.

DATED : MARCH 21, 2025

PC.:

1. The present writ petition raises a serious and substantial issue as to the manner and legality of exercise of statutory power by the State Government, particularly at the behest of a Member of the Legislative Assembly, who is stated to have made a recommendation for reinstatement of an Administrator previously removed from office on the basis of grave and well-documented findings of financial impropriety. The challenge assumes significance in light of the foundational principle that public office,

particularly that of an Administrator of a statutory body such as an Agricultural Produce Market Committee (APMC), is held in trust for the public and must be free from taint, suspicion or political interference. The impugned action, *prima facie*, appears to compromise the integrity of the institution and militates against the statutory objectives of transparency, accountability and financial prudence.

2. It is revealed from the record that by communication dated 12th September 2024, the District Deputy Registrar, Co-operative Societies, submitted a detailed report to the Director of Marketing, Maharashtra State, Pune, cataloguing serious complaints and allegations against the said Administrator, Mr. Mohan Nimbalkar. Among the allegations, the most prominent is the unauthorised and excessive expenditure of more than ₹25,00,000/- towards appointment of private security guards, in stark departure from the sanctioned budget approved by the preceding elected Managing Committee. Furthermore, there are various other financial decisions attributed to Mr. Nimbalkar which bear the character of ‘major policy decisions’ — decisions that, by settled legal principles, do not fall within the limited mandate of an Administrator appointed under Section 77A of the Maharashtra Co-operative Societies Act, 1960.

3. It is well-settled law that public functionaries discharging statutory duties are expected to act with accountability and are subject to scrutiny when public funds and fiduciary responsibilities are involved. The primary role of an Administrator is confined to overseeing the day-to-day functioning of the institution and

ensuring that elections to the Managing Committee are held in a fair and time-bound manner. The Administrator is not expected to exercise powers that are legislative or policy-oriented in nature, a principle which has been consistently reiterated by this Court and the Apex Court.

4. In the present case, the record indicates that Mr. Nimbalkar was removed after the departmental authorities considered the gravity of these allegations and appointed one Smt. Pragati Bagal as Administrator. In such circumstances, prima facie the reappointment of Mr. Nimbalkar, without addressing or exonerating him of the earlier serious charges, cannot be countenanced in law.

5. The petitioner has brought on record a communication dated 10th March 2025, issued by a Member of the Legislative Assembly, recommending reinstatement of Mr. Nimbalkar. It appears from the record that such recommendation was acted upon and accepted by the Principal Secretary (Marketing), leading to the issuance of orders for re-appointment of Mr. Nimbalkar as Administrator. This Court is constrained to observe that statutory discretion cannot be exercised in a mechanical or extraneous manner, much less on the basis of a mere political recommendation. Reinstating a person who was earlier removed on serious grounds, merely on a political recommendation, would not only be arbitrary and unreasonable but would also undermine the rule of law and public interest.

6. Having considered the aforesaid facts and circumstances, this Court is of the considered opinion that the order dated [insert

date] reappointing Mr. Mohan Nimbalkar as Administrator of Respondent No.5-APMC deserves to be stayed pending further examination. The interest of justice and the integrity of public administration warrant such interim protection.

7. In view of the above, this Court directs the Principal Secretary (Marketing), Government of Maharashtra, to file a personal affidavit within a period of two weeks from today, explaining in detail the reasons for recommending the reinstatement of Mr. Nimbalkar, especially in light of the adverse findings recorded in the report of the District Deputy Registrar dated 12th September 2024, which had been duly accepted by the Department. The affidavit shall also disclose whether any departmental or criminal proceedings have been initiated or concluded against Mr. Nimbalkar based on the said report and the status thereof. The said affidavit shall be filed on or before the next date of hearing.

8. Stand over to 7th April 2025 for further consideration.

9. Till the next date, the re-appointment of Mr. Mohan Nimbalkar as Administrator of the Agricultural Produce Market Committee, Respondent No.5, shall remain stayed.

10. This Court is informed that Smt. Pragati Bagal has been appointed as the Returning Officer for the conduct of elections to the said APMC. Her appointment shall continue to be effective, and she shall discharge her duties in accordance with law.

11. This Court further directs the Director of Marketing, Maharashtra State, Pune, to appoint forthwith a suitable and

qualified person, having an unblemished record of public service, as the Administrator of the Respondent No.5-APMC. Such appointment shall be made strictly in accordance with law, keeping in mind the principles of fairness, non-arbitrariness and administrative propriety.

(AMIT BORKAR, J.)