



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 4074/2024

PETITIONER(S):-

**(1) Chikhli Taluka Hamal Kamgar
Sahakari Sanstha Ltd., Chikhli,
District Buldhana,**

Through its President
Moiddin Khan Umar Khan
having Office at Mahavir
Nagar, Ward No. 1, Chikhli,
District Buldhana

**(2) Sangharsh Kamgar Sahakari
Sanstha Ltd., Khamgaon,
District Buldhana,**

Through its President Vijay
Wamanrao Wankhede, having
Office at Gajanan Colony,
Khamgaon, District Buldhana

**(3) Indira Hamal Kamgar Sahakari
Sanstha Ltd., Buldhana,**

Through its President, Sardar
Khan Aliyar Khan, having
Office at Indira Nagar,
Buldhana

// VERSUS //

RESPONDENT(S):-

- (1) **The State of Maharashtra,**
Through Principal Secretary,
Food, Civil, Supply and
Consumer Protection
Department, Mantralaya
Extension, Mumbai-400 032.
Email:-
napul6A.mhpds@mah.gov.in
- (2) **The Collector,**
Buldhana
- (3) **The District Supply Officer,**
Buldhana

Shri F.T. Mirza, Sr. Adv. a/b Shri P.S. Thakur, Adv for the
Petitioner(s)
Shri P.P. Pendke, AGP for the Respondent/State

CORAM : M.S. JAWALKAR & PRAVIN S. PATIL, JJ.
CLOSED FOR JUDGMENT ON :- JULY 24, 2025
JUDGMENT PRONOUNCED ON :- JULY 29, 2025

JUDGMENT :- (PER:- M.S. JAWALKAR, J.)

. **RULE. Rule made returnable forthwith.** Heard finally by consent of learned Counsel for the respective parties.

(2) The present Writ Petition is filed challenging the order dated 01/02/2024 by which the State of Maharashtra has selectively stayed the ongoing tender process for only Buldhana District in Vidarbha region on the ground of expected change in the Government Policy. The tender is for grant of work contract for handling of grains in the government godowns to the Hamal Co-operative Societies. The Petitioners are Hamal Co-operative Societies duly registered under the Maharashtra Co-operative Societies Act, 1960. The Members of the Petitioners are labours doing manual work of arranging and stocking the grain bags at the government godowns maintained by the Respondents. The Respondent No. 2 – Collector, Buldhana and the Respondent No. 3 – District Supply Officer, Buldhana are responsible for the administration of the Public Distribution System in Buldhana District. The Respondent No. 1 – Government of Maharashtra issued Government Resolution dated 06/03/2023 laying down the policy regarding a procedure to be undertaken for grant of work contract to the Hamal Co-operative Societies for handling of the grains and other commodities at the government godowns. As per this Resolution, the contracts are to be issued by the competent tenders, the contract would be for three years

and only the Hamal Co-operative Societies can participate. Accordingly, the e-tender notice dated 20/09/2023 came to be issued by the Collector, Buldhana, inviting the bids for all the government godowns in the District.

(3) On 04/01/2024, another e-tender notice came to be issued for 5 godowns namely Deolgaonraja, Sindhkhedraja, Mahekar, Lonar and Motala. The Petitioners submitted their bids which were found to be valid after opening of the technical envelopes, which was communicated by the Respondent No. 3 - District Supply Officer to the Petitioners vide its communication dated 11/12/2023. The Petitioners were expecting completion of the process and award of work order immediately as was issued by the Collector in other Districts like Yavatmal and Gadchiroli. However, it was informed that the Respondent No. 1 – State of Maharashtra on 01/02/2024 stayed the ongoing tender process in a few Districts and only Buldhana from Vidarbha region, on the ground that the State may adopt a new Policy other than laid down in the Government Resolution dated 06/03/2023. The said information was received by the Collectors of Raigad, Ratnagiri, Nandurbar, Sindhudurg, Pune, Nanded, Buldhana, Parbhani and

Dhule by communication dated 01/02/2024 issued by the Secretary, Maharashtra State. The Petitioners – Society made Representations to the Respondents on 13/02/2024, 06/03/2024 and 22/05/2024, but no action is taken.

(4) Shri F.T. Mirza, learned Senior Counsel appearing for the Petitioners contends that the impugned order dated 01/02/2024 staying the tender process in Buldhana District is unreasonable, unjust and patently illegal. Though it was the contention of the State of Maharashtra that the tender process was stayed on the ground that the Policy for grant of Hamal contract at the government grains godowns shall be amended and the process would be made more transparent, but at the same time, the tender process in Yavatmal and Gadchiroli Districts were completed and the work orders were issued. By staying the tender process in the District Buldhana, the Respondent No. 1 is creating classification which is unreasonable, arbitrary and evasive.

(5) It is further contended by learned Senior Counsel for the Petitioners that the Respondents treated the equals unequally and violated the fundamental rights of the Petitioners

guaranteed under Article 14 of the Constitution of India. The doctrine of promissory estoppel is attracted in view of the action of the Respondents staying the tender process after promising to do something and reverting back from the same. This action of the Respondents is not only arbitrary, unlawful but also causes prejudice to the Petitioners. It is the legitimate expectation that the decision taken would be executed in all the Districts equally. In view of the above submissions, the Petitioners seek quashing and setting aside the impugned order dated 01/02/2024 issued by the Respondent No. 1.

(6) Learned Senior Counsel appearing for the Petitioners, in support of his contentions, relied on the following citations:-

(a) *Government of Andhra Pradesh & others vs. P. Laxmi Devi (Smt.)*, (2008) 4 SCC 720;

(b) *Writ Petition No. 7279/2023 (Parashar Hamal Kamgar Co-operative Society Limited vs. The State of Maharashtra & others) and connected matters, judgment of this Court, Bench at Aurangabad dated 29/11/2023;*

(7) As against this, Shri P.P. Pendke, learned AGP for the Respondents submitted that there is no dispute that in pursuance

to the Government Resolution dated 06/03/2023, the e-tenders were issued. It is also a matter of record that the Respondent No. 3 also issued a second call e-tender notice dated 04/01/2024. The tender process technical envelopes were opened. Those were stayed as per the directions issued by the Office of the Respondent No. 1 on 01/02/2024. The said stay is granted as there may be a further Government Resolution which would be issued considering the difficulties arising in the determination of Hamal contract, different rates of Mathadi Mandal in each District, non-availability of the experienced Hamal contractors in the tender and the differences in the tendering procedure at the District level. It is submitted that in order to bring the uniformity in the rates to be paid to the Hamal workers in the government grains godowns for the handling of the grains, to make the tender process transparent, in a prescribed manner etc., the Government Resolution dated 06/03/2023 needs to be amended. Accordingly, the tender process has been stayed till further orders.

(8) In the additional submissions, it is submitted by the learned AGP for the Respondents that in Dhule District, the

contract of the contractor i.e. Dhule Hamal Mapadi Kamgar Sahakari Patpedhi Maryadit was cancelled on 10/07/2024, as they did not satisfy the provisions of the Government Resolutions dated 08/05/2018 and 06/03/2023. However, the work of Hamal was necessary and urgent for handing the grains distribution. Thus, till such policy was adopted, the tender process under the Government Resolution dated 06/03/2023 was stayed by the State Government vide impugned order dated 01/02/2024. In order to continue the grain distribution, Mata Vaishnav Devi Hamal Labour Co-operative Society Maryadit, Chimthane was temporarily permitted to work by providing Hamals. This work was granted with approval of the then Minister only by way of temporary arrangement. The proposal for implementation of the tender process for issuing the contract for foodgrains handling in the government grain godowns in the District, which was suspended vide the impugned order dated 01/02/2024, has been submitted to the Hon'ble Minister and the Respondents are awaiting for the orders.

(9) Learned AGP, in support of his contentions, relied on the following citations:-

(a) Writ Petition No. 10727/2023 (Dhule Hamal Mapadi Kamgar Sahakari Patpedhi Limited, Dhule vs. The State of Maharashtra & others) judgment of this Court, Bench at Aurangabad dated 12/02/2025;

(b) Writ Petition No. 2399/2024 (M/s. D.M. Gaikwad Constructions vs. The State of Maharashtra & others) judgment of this Court, Bench at Aurangabad dated 07/10/2024;

(c) Airport Authority of India vs. Centre for Aviation Policy, Safety & Research (CAPSR) & others, 2022 SCC OnLine SC 1334; &

(d) Michigan Rubber (India) Limited vs. State of Karnataka & others, (2012) 8 SCC 216.

(10) We have heard learned Counsel for the respective parties, considered the documents placed on record and the citations relied on by the parties.

(11) Learned Senior Counsel appearing for the Petitioners placed on record the work order in respect of Yavatmal District (Page 81) which clearly shows that the said order is issued pursuant to the Government Resolution dated 06/03/2023. Similarly, the work order in respect of Gadchiroli District is

placed on record (Page 89). Both these Districts are from the Vidarbha region. The learned Senior Counsel appearing for the Petitioners placed reliance on the judgment in the case of ***Parashar Hamal Kamgar Co-operative Society Limited (supra)*** wherein this Court, in Paragraph No. 13, has held as under:-

“13. Since it is a matter of policy it would be apt to recapitulate the history leading to the passing of the resolution under challenge. As can be appreciated, the basic resolution issued by the Food and Civil Supplies department of the State Government is dated 12.09.2014. Since it was a matter of loading and unloading of the goods at the Government godowns under that department, obviously, even the issue was involving the labour cooperative societies and even the labour societies registered under the Mathadi Act. Though the government resolution dated 12.09.2014 was issued by the department of Food and Civil Supplies, as can be noticed from the prephase of that resolution, even the Mathadi Board and the representatives of the labourers were allowed to participate in the meetings and consequently, the resolution was passed covering all the aspects involving the labour cooperative societies and the Mathadi Board. Detail modalities were provided for allotment of contracts for the work of loading and unloading at the Government godowns, the manner in which the tenders would be floated, which labour

societies would be entitled to participate, the obligations cast on them, so on and so forth. It also requires that the societies or the contractors with whom the agreements would be entered into shall be necessarily required to be registered as employers, under Section 14 of the Mathadi Act. Even it contained a draft of the agreement to be entered into.”

(12) It is pointed out that in fact, the Government Resolutions dated 12/09/2014 and 06/03/2024 are, in detail, covering all the aspects in respect of loading and unloading of the goods at the government godowns.

(13) Our attention is drawn to the communication dated 10/07/2018 (Page 116) which is issued during the pendency of this Petition whereby the condition of stay to the tender process was relaxed in case of Dhule District. The Petitioners – Society, vide its communication dated 20/08/2024 (Page 118) sent to the Minister, requested that they may be allotted the work order as per the work order issued in favour of Mata Vaishnav Devi Hamal Kamgar Sahakari Sanstha, Chimthane, Taluka Sindhkheda, District Dhule. However, it appears that there is no response to this communication.

(14) Learned Senior Counsel appearing for the Petitioners also placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Government of Andhra Pradesh (supra)*** wherein it is held that it is the solemn duty of Courts to uphold the civil rights and liberties of the citizens against executive or legislative invasion, and the Court cannot sit quiet in this situation, but must play an activist role in upholding civil liberties and the fundamental rights in Part-III. This is necessary because though ordinarily the legislature represents the will of the people and works for their welfare, there can be exceptional situations where the legislature, though elected by the people may violate the civil liberties and rights of the people.

(15) Learned AGP placed reliance on the judgment in the case of ***Dhule Hamal Mapadi Kamgar Sahakari Patpedhi Limited (supra)*** wherein dis-continuation of the Petitioner – Society was under challenge before this Court, as the contract was over. The said Writ Petition was dismissed in view of the Government Resolution dated 26/03/2023 and it is held that the Petitioner – Society being the resource society/credit society is 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.

(16) Learned AGP also placed reliance on the judgment in the case of *M/s. D.M. Gaikwad Constructions (supra)* wherein this Court, in Paragraph No. 11, has held as under:-

“11. It would be prerogative of the tendering authority to fix the tender conditions. It is open for the tendering authority to modify or deviate from any tender condition which was existing in the earlier tender process. The tendering authority is the best Judge to select the conditions to suit its purpose. In writ jurisdiction, the conditions cannot be substituted or modified just on the ground of hardship to any party or inconvenience...”

(17) However, in the present matter, there is no challenge to any tender or tender condition. It is the contention of the Petitioners that in spite of they being qualified in the e-tender issued by the Respondent Nos. 2 and 3, the work order was not allotted. Similarly, insofar as the judgments relied on by the learned AGP of the Hon’ble Supreme Court in the cases of *Airport Authority of India (supra)* and *Michigan Rubber (India)*

Limited (supra) are concerned, there is no dispute over the proposition laid down in the said judgments, however, the same are not applicable in the present set of facts.

(18) The learned AGP placed on record a communication dated 02/07/2025 received by the Office of the Assistant Government Pleader from the Section Officer, State of Maharashtra and pointed out that in respect of Dhule District, the Society which was engaged in providing labours was a credit Society. It's term was over and in view of the Government Resolution, the said Society is not eligible to be continued, and therefore, as a temporary arrangement, Mata Vaishnav Devi Hamal Kamgar Sahakari Sanstha, Maryadit, Chimthane was allotted the work order. If that is the case, there was no reason for not considering the case of the Petitioners specifically when they are ready to work on the terms and conditions on which the work was allotted in Dhule District.

(19) It needs to be noted here that the tender issued was not cancelled and in some parts, the work orders are also issued which can be seen from the documents in respect of Yavatmal and Gadchiroli Districts. In Dhule District, the then existing

Labour Contract Agency was a credit Society. It's term was over, and therefore, Mata Vaishnav Devi Hamal Kamgar Sahakari Sanstha, Maryadit, Chimthane was allotted with temporary work order. In the present matter also, though it is not a credit Society, it's terms is already over, and therefore, as per the tender issued, the eligible labour Society is entitled to get the work order issued in its favour. There is no certain period as to when the new Government Resolution will come into effect. As such, on that basis, the labour Society of which the term is over, cannot continue indefinitely.

(20) Therefore, in our view, the action on the part of the Respondents is violative of the fundamental rights of the Petitioners as enshrined under Articles 14 & 19 of the Constitution of India, to get the equal treatment as well as to carry out their business. The action on the part of the Respondents is not only arbitrary but also contrary to the doctrine of legitimate expectation. As such, the impugned communication/order does not sustain in the eyes of law and is liable to be quashed and set aside.

(21) Hence, we proceed to pass following order:-

ORDER

- (a) The Writ Petition is **allowed**.
- (b) The impugned communication/order dated 01/02/2024 issued by the Respondent No. 1 – Principal Secretary, Food, Civil and Supply Department, State of Maharashtra is hereby quashed and set aside.
- (c) The Respondent No. 1 – State is directed to complete the tender process in Buldhana District or to issue the work order in favour of the Petitioners as issued in Dhule District, on temporary basis.

Rule is made absolute in the above terms. Pending Application(s), if any, stand(s) **disposed of**.

(PRAVIN S. PATIL, J.)

(M.S. JAWALKAR, J.)