



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO.7177/2024

Rajendra s/o Champatrao Khawshi,
Aged about 59 years, Occupation:
Agriculturist/ Chairman, A.P.M.C.,
Ashti, R/o Ward No.2, Old Karanja,
Nara, Tah. And District Wardha.

... PETITIONER

...VERSUS...

1. The State of Maharashtra, through its Secretary, Department of Marketing, Maharashtra State, Mumbai.
2. Maharashtra State Agriculture Marketing Board, Pune, through Executive Director, Plot No.R-7, Chhatrapati Shivaji Market Yard, Gultekdi, Pune-411 037.
3. District Deputy Registrar, Co-operative Societies, Wardha.
4. Agriculture Produce Market Committee, Ashti (Shahid), Tq. Ashti, Dist. Wardha, through its Secretary.
5. Agriculture Produce Market Committee, Ashti (Shahid), Tq. Ashti, Dist. Wardha, through its Administrator Shri Gautam Dhongade.
6. Agriculture Produce Market

Committee, Karanja (Ghadge), Tq.
Karanja (Gh.), Dist. Wardha, through
its Administrator Shri Sandip Bharati

...RESPONDENTS

Shri R.L. Khapre, Senior Advocate a/w Shri A.D. Dangore, Advocate for
petitioner

Shri S.B. Bissa, AGP for respondent Nos.1 and 3/State

Shri V.G. Ingle, Advocate h/f Shri A.P. Kalmegh, Advocate for respondent No.2

Shri B.M. Kharkate, Advocate for respondent Nos.5 and 6

**CORAM : SMT. M. S. JAWALKAR, AND
PRAVIN S. PATIL, JJ..**

DATED : 21.07.2025

ORAL JUDGMENT (PER SMT. M. S. JAWALKAR, J.)

. Heard learned Counsel for the respective parties.

2. The present petition is filed challenging the Notification issued by District Deputy Registrar, Co-operative Societies, Wardha dated 02.12.2024, whereby action of division of respondent No.4/Agriculture Produce Market Committee, Ashti, District Wardha initiated. The Agriculture Produce Market Committee at Ashti was established in the year 1975. Respondent Nos.2 and 3 have initiated the action for division/bifurcation of respondent No.4 A.P.M.C., Ashti by forming new A.P.M.C. of

Karanja. It is contention of the petitioner that the action of bifurcation is initiated only due to political demand of local MLA, who is from ruling party.

3. It appears that respondent No.2- Maharashtra State Agriculture Marketing Board, Pune, has passed a resolution dated 05.04.2023 on the recommendation of respondent No.3- District Deputy Registrar, Co-operative Societies, Wardha for division of respondent No.4- Ashti A.P.M.C., and thereby to establish A.P.M.C. Karanja by dividing respondent No.4-Ashti A.P.M.C. into two Market Committees. Accordingly, respondent No.2 has directed the respondent No.3 to take appropriate action and consequently, respondent No.3 directed respondent No.4 A.P.M.C. to submit its report by its communication dated 26.04.2023 (annexure-C page-31).

4 It is submitted that the date on which the proposal was forwarded to respondent No.2 and the resolution passed on 05.04.2023 at that time, the process of A.P.M.C. Election was already began. In such circumstances, the proposal ought not to

have forwarded for bifurcation of respondent No.4- A.P.M.C. The proposal forwarded by respondent No.3 dated 14.01.2022 came to be rejected as it is a policy decision and it ought to have been taken by the newly elected body.

5. If Section 44 of the A.P.M.C. Act is perused, which reads as under:

“Section 44 Amalgamation or division of Market Committees

(1) Where the State Government is satisfied that for securing efficient regulation of marketing of any agricultural produce in any market area, [and for ensuring the economic viability of the Market Committee], it is necessary that two or more Market Committees therein should be amalgamated or any Market Committee therein should be divided into two or more Market Committees, then the State Government may, after consulting the Marketing Committees or Committee, as the case may be, [and the [State Marketing Board]] by notification in the Official Gazette, provide for the amalgamation or division of such Market Committees into a single Market Committee or into two or more Market Committees, for the market area in respect of the agricultural produce specified in the notifications with such constitution, property, rights, interests and authorities and such liabilities, duties and obligations (including provision in respect of contracts, assets,

employees, proceedings, and such incidental, consequential and supplementary matters as may be necessary to give effect to such amalgamation or as the case may be, the division), as may be specified in the notification.

(2) Where more Market Committees than one are established in any market area under sub-section (1), the State Government may, notwithstanding anything contained in this Act, issue general or special directions as to which of the Market Committees shall exercise the powers, perform the duties and discharge the functions of the Market Committee under this Act, in which they are jointly interested or which are of a common nature.

(3) Where any directions are issued under sub-section (2), the cost incurred by a Market Committee in pursuance of the directions shall be shared by the other Market Committees concerned in such proportion as may be agreed upon or in default of agreement, as may be determined by the State Government or such officer as that Government may direct in this behalf. The decision of the State Government or such officer shall be final.”

6. Learned Senior Counsel Shri R.L. Khapre, for petitioner relied on *Sunil Kailashchandra Rawat and others Vs. State of Maharashtra and others, 2017 (3) Mh.L.J. 865*, wherein this Court held as under:

“It is well settled that the bifurcation of a Market Committee could be ordered only after effective consultation with the Market Committee and the State Marketing Board. Consultation with the Market Committee and the State Marketing Board is mandatory and not directory. The Market Committee should have been consulted after the proposal was mooted. The District Deputy Registrar, while forwarding a proposal in respect of bifurcation to the State Marketing Board, was obliged to send a similar proposal to the concerned APMC which was not sent. The State Government did not consult the concerned Market Committee before the Market Committee was bifurcated by the impugned order. Consultation is not an empty formality and the same should be effective and meaningful. The consultation with the State Marketing Board, is neither effective nor meaningful. One Member of the State Marketing Board was not aware about the view of the other Member of the Board on the subject of bifurcation. In a consultation, meeting of minds between the parties is necessary and each Member of the State Marketing Board ought to have been made aware about the view of the other Member or Members on the subject. It cannot be said that there was an effective consultation with the State Marketing Board before the order of bifurcation of the Market Committee was passed by the State Government. If the statute so requires that the body should be consulted, the decision cannot be rendered by the Authority concerned without complying with the mandatory provision pertaining to consultation. The impugned order of the District Deputy Registrar and the notification of the State Government are quashed and set aside.”

7. The District Deputy Registrar, Co-operative Societies, Wardha vide communication dated 08.02.2022 is in-consonance with the provision of A.P.M.C. Act specifically Section 44 of the A.P.M.C. Act.

8. Learned Senior Counsel for petitioner further pointed out that as per communication dated 19.05.2023, it was informed that considering the financial viability, it will not be possible to submit its report for division of A.P.M.C. until the opinions of agriculturists transacting business through the said A.P.M.C. are invited. The financial position of the A.P.M.C. was already informed. The Resolution dated 18.05.2023 (page 33) was duly informed to the District Deputy Registrar, Co-operative Societies, Wardha, vide its communication dated 19.05.2023. It appears that the communication dated 16.06.2023, the District Deputy Registrar, Co-operative Societies, Wardha, to respondent No.2, it was informed that the duly elected body has taken charge by the resolution dated 18.05.2023. The new body sought time to take opinion of the agriculturists.

9. In spite of this position, the District Deputy Registrar initiated action for bifurcation of Karanja and Ashti A.P.M.C. by issuing Notification dated 02.12.2024. By this Notification, the objections were called within 30 days from the date of Notification. It appears that without considering the request of A.P.M.C., the decision was taken to bifurcate Karanja and Ashti A.P.M.C. Earlier, proposal was rejected by the District Deputy Registrar on the ground that in view of ensuing elections, it would be appropriate to take decision on bifurcation, being policy decision, by the newly elected body. After taking a charge and after election of Chairman and Vice-Chairman, the body of the A.P.M.C. Ashti, has taken resolution dated 18.05.2023, whereby it was informed that the A.P.M.C. will have to consult with the agriculturists who are transacting through A.P.M.C. Ashti. So also, it was informed that it is not financially viable to bifurcate Ashti A.P.M.C. into Ashti and Karanja which may cause financial loss. The main contention is that as per Section 44 of the A.P.M.C. Act, there is no consultation with the A.P.M.C. Ashti. Why its consultation is mandatory, it is discussed by this Court in *Sunil Kailashchandra Rawat and others (supra)*. It is observed that the change in the structure of the Market

Committee would cause loss to the APMC which in turn would cause loss to the petitioners. The consultation is not an empty formality and the same should be effective and meaningful. As such, on perusal of impugned Notification it appears that the impugned Notification issued without consultation of the A.P.M.C. Ashti is unjustified, and contrary to the provision of law.

10. Though the learned Assistant Government Pleader submitted that there is information about the financial position forwarded by A.P.M.C. Ashti, would indicate that there was consultation and proposal forwarded by A.P.M.C. Ashti. On perusal of communication dated 23.03.2023 on which, learned AGP is relying, it appears that as information was sought from Ashti A.P.M.C., the information as per check list point No.1 to Point No.20 is submitted to the District Deputy Registrar. However, that does not amount to any consultation in respect of bifurcation of the A.P.M.C. Ashti. As such, there is no compliance of mandatory provisions of Section 44 of the A.P.M.C. Act and, therefore, the impugned Notification dated 02.12.2024 is liable to be quashed and set aside. Accordingly, we proceed to pass the following order:

ORDER

- i) The Writ Petition is allowed.
- ii) The impugned Notification dated 02.12.2024 is hereby quashed and set aside.
- iii) The District Deputy Registrar is, therefore, directed to consult the newly elected body of A.P.M.C. as per provision under Section 44 of the A.P.M.C. Act, before issuance of any further action for bifurcation.

11. The Writ Petition is disposed of accordingly.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)

R.S. Sahare