

---

**(2016) 12 BOM CK 0011**

**In the Bombay High Court**

**Case No : Writ Petition No. 3000 of 2016**

Suresh S/o Kawaduji Yenodkar

APPELLANT

Vs

State of Maharashtra

RESPONDENT

---

**Date of Decision : 08-12-2016**

**Acts Referred:**

Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 — Section 45(1)

**Citation : (2017) 2 ALLMR 217**

**Hon'ble Judges : Smt. Vasanti A. Naik and Mrs. Swapna Joshi, JJ.**

**Bench : Division Bench**

**Advocate : R.A. Gupte, Advocate, for the Petitioners; Mr. A.S. Fulzele, Addl. Government Pleader, for the Respondent Nos.1 to 3**

**Final Decision : Dismissed**

---

## **Judgement**

Smt. Vasanti A Naik, J. (Oral) - Rule. Rule made returnable forthwith. The writ petition is heard finally with the consent of the learned counsel for the parties.

2. By this writ petition, the petitioners, the Directors of the Agriculture Produce Market Committee have challenged the order of the respondent No.2, District Deputy Registrar, Cooperative Societies, Bhandara dated 03/12/2015, under section 45(1) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act.

3. The petitioners were the Directors of the agriculture produce market committee. On a complaint made by one Gajanan Naktode, an enquiry was initiated in the affairs of the market committee. The respondent No.3 Assistant Registrar conducted an enquiry and submitted a report, dated 17/04/2013. In pursuance of the report, a show cause notice was issued to the petitioners and after hearing the petitioners, the impugned order of supersession of the market committee dated 03/12/2015 was passed. The petitioners have impugned the order of the District Deputy Registrar dated 03/12/2015, in the instant petition.

4. Shri Gupte, the learned counsel for the petitioners, submitted that the

impugned order is liable to be set aside, as the market committee has been superseded without effective consultation with the State Marketing Board. It is stated that though the District Deputy Registrar had referred the matter to the State Marketing Board, the State Marketing Board has not opined in the matter of supersession of the market committee. It is stated that it is apparent from the documents annexed to the affidavit-in-reply filed on behalf of the District Deputy Registrar that the State Marketing Board has not given an opinion in the matter of supersession of the market committee. It is stated that the State Marketing Board has only asked the District Deputy Registrar to take appropriate action in accordance with law and if any court case is pending, to act as per the directions of the court and to ensure that there is no contempt of the orders of the court. It is stated that since an effective consultation with the State Marketing Board is contemplated by the proviso to section 45 (1) of the Act, it was necessary for the State Government to effectively consult with the State Marketing Board.

5. Shri Fulzele, the learned Additional Government Pleader appearing for the respondents, has supported the order of the District Deputy Registrar. It is stated that the proposal in regard to the supersession of the market committee was sent to the State Marketing Board and the State Marketing Board had called for the report from the Deputy Manager of the Board at Nagpur. It is stated that after the said report was secured, the report of the Project Director of the Board at Bhandara was sought and again a detailed enquiry report was secured from the Deputy General Manager of the Board at Nagpur. It is stated that on the reports of the Deputy General Manager and the Project Director of Nagpur and Bhandara respectively, the State Marketing board directed the District Deputy Registrar vide communication dated 27/11/2015 to take appropriate action. It is stated that even otherwise, the term of the agriculture produce market committee has expired on 08/12/2015 and the petitioners cannot seek the restoration of the managing committee of the agriculture produce market committee, even if the orders of supersession of the market committee are set aside. It is stated that the cause for filing the writ petition has been rendered infructuous, as the term of the market committee has expired on 08/12/2015.

6. Section 45 (1) provides that no market committee could be superseded without previous consultation with the State Marketing Board. It is not in dispute that the District Deputy Registrar had referred the matter to the State Marketing Board. It is the case of the District Deputy Registrar that after the matter was referred to the State Marketing Board by the District Deputy Registrar, the report from the Deputy Manager of the Board at Nagpur and the Project Director of the Board at Bhandara was sought. It appears that though the reports were secured, the State Marketing Board did not apply its mind to the matter pertaining to the supersession of the market committee and asked the District Deputy Registrar to take appropriate action vide communication dated 27/11/2015. It was further conveyed by the said communication, by the State Marketing Board to the District Deputy Registrar that the orders passed in the pending matters should be considered and the District Deputy Registrar should ensure that no orders of the

Courts should be flouted. On a reading of the communication served by the State Marketing Board on the District Deputy Registrar, along with the resolution passed by the State Marketing Board, it appears that the State Marketing board has not given any opinion in the matter of supersession of the market committee though before supersession of the market committee, an effective consultation with the State Marketing board is obligatory. The State Marketing board has not taken any decision whatsoever, though it is stated that the State Marketing Board had sought the opinion of the Deputy Manager of the Board at Nagpur and the Project Director of the Board at Bhandara. The State Marketing Board ought to have informed the District Deputy Registrar on the basis of the reports and the material on record whether the market committee could be superseded or not. What is conveyed by the State Marketing Board to the District Deputy Registrar is that the District Deputy Registrar should take appropriate action in the matter, by consciously considering the orders passed by the courts and ensuring that there is no contempt of any orders. This is not an opinion that is expected from the State Marketing Board under the proviso to section 45 (1) of the Act. It is rightly submitted on behalf of the petitioners that an order of supersession of the market committee could not have been passed without effectively consulting the State Marketing Board. Since the opinion of the State Marketing Board is not an opinion at all, the impugned order is liable to be set aside. Though the petitioners would not be entitled to continue as the directors of the agriculture produce market committee after the expiry of the term, when the elections to the market committee are scheduled, the order of supersession of the market committee under section 45(1) of the Act is liable to be set aside or else penal consequences under subsection (2A) of section 45 of the Act would follow and the directors of the market committee would not be eligible for being reelected, reappointed, renominated, coopted, etc. for a period of six years.

7. Hence, for the reasons aforesaid, the writ petition is partly allowed. The order of the District Deputy Registrar, dated 03/12/2015 is quashed and set aside. Rule is made absolute in the aforesaid terms with no order as to costs.