

MAHARASHTRA STATE HUMAN RIGHTS COMMISSION

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SHRC/VGM/04/2009/ 116 (

Case No. – 310/2007-08

Name of the Complainant : Dr Giridhar Patil
A/4, Purnam Centre, Opp. Gaikwad
Classes, Kanhere Wadi, C.B.S.,
Nashik – 422 001.

Vs.

1. The Secretary
APMC, Nashik
2. The Police Inspector
Police Station Panchvati
Nashik

Date : 1 April 2009

Coram : **Justice V G Munshi, Member**

ORDER

Read the averments made in the complaint and the reply received from the Respondent No.1 A.P.M.C, Nashik and Respondent No.2 Sr Police Inspector – Police Station Panchvati. Read the case papers and the Maharashtra Agricultural Produce Marketing (Development and Regulation), Rule 1987 made under M.A.P.M (DIR) Act, 1963. Heard the parties.

2. Before proceeding further with the merits of the case, points to be decided etc, it is necessary to acquaint ourselves with the facts of the case with which we are concerned.



The complainant Dr Gridhar Sitaram Patil, General Secretary – Shetkari Sanghatana, Maharashtra is an activist and always look after the welfare of the farmers and is working in this field since year 1995.

The Respondent No.1 Agricultural Produce Marketing Committee is formed in view of the provision of M.A.P.M (DIR) Act, 1963 and the Rules framed there under. The main intention and purpose to form such Committee is to carry out the process of purchase and sell of agricultural produce and to give reasonable price / rates to the produce of the farmers and to provide proper place for such business etc.

The Respondent No.2 Sr Police Inspector, Police Station Panchvati, Nashik, through their Police Chowki, which is opened in the premises of Market Yard, looks after the maintenance of peace, law and order etc.

3. The Respondent No.1 A.P.M.C, Nashik functions for the welfare of farmers. When the farmers come to market yard along with their agricultural produce, according to the complainant, they have to face number of problems, inconvenience, harassment, etc. They do not get proper and reasonable value to their produce. In short according to the complainant, the farmers have to go through miserable circumstances. The complainant blamed, the Respondents and made grievance that, all these things occur, only because of inaction on the part of these Respondents. Therefore, prayed for suitable action in this matter.

4. The Respondent APMC, Nashik by filing their reply and additional reply denied and disputed all the allegations made against them. They have come with a case that, they did take all the steps for the welfare of farmers and also in the interest of farmers. In



R/R,HRG-RECOMM.

the last according to the Respondent APMC, Nashik the complainant has no locus to file such complaint before Commission. Lastly, it was alleged that said complaint was filed with malafide intention and motive and to harass the Committee.

5. The Respondent Sr. Police Inspector – Police Station Panchvati has come with a case that, they have taken proper action in every matter, maintained law and order and thus, calls for no adverse remarks.

6. Therefore, it is necessary to view the case of the complainant in the light of facts and circumstances brought on record and also in the light of legal position.

(i) The Respondent APMC, Nashik has come with a case that the complainant is not a farmer, consumer, supplier, agriculturist, purchaser or adatia (businessman) and therefore, he has no locus standii to file present complaint before Commission. According to the complainant, he is a social worker and activist and always works for the welfare of the farmers and therefore, he can knock the doors of Commission and can very well make the grievances and seek the relief. Sec. 12 (a) of the Protection of Human Rights Act, 1993 (here-in-after called Act of the 1993) speaks about functions of the Commission and it is reproduced as under.

Sec. 12 (a)

“The Commission shall perform all or any of the following functions namely,

(a) inquire suo motu or on a petition presented to it by a victim or any person on his behalf (or on a direction



or order of any Court) into complaint of-

(i) violation of human rights or abatement thereof or

(ii) negligence in prevention of such violation by a public servant”

Present complaint is filed by the complainant on behalf of farmers or aggrieved persons, as permitted under Sec. 12 (a) of the Act of 1993.

(ii) The complainant made allegations of malpractice, maltreatment to the farmers etc at the hands of officials of APMC, Nashik. The complainant made prayer that APMC, Nashik Management, be held guilty of violation of human rights and every member of APMC, Nashik be punished accordingly. It was argued by the learned counsel for APMC, Nashik that all these things do not come within purview of the Commission and therefore, the Commission should not take cognizance of such matter. Therefore, we have to view the case of the complaint on this background and also in the light of provisions of Sec. 12 (a) (i) and (ii) of the Act, 1993.

(iii) The complainant made grievance about the rates of bundles of certain leafy vegetables. Some dispute is going on among the farmers on one hand and the adatia (businessman) on other hand. The farmers and the businessman made representation etc to the Respondent APMC, Nashik on this issue. This issue and such other issues are to be dealt with and decided by Respondent APMC, Nashik. The powers and jurisdiction of the Commission is not unlimited. The Hon'ble Supreme Court in



2004 A I R SCW 126

(N C Dhoundial Vs. Union of India & Ors.)

It was held that,

“The Commission which is an ‘unique expert body’ is no doubt, entrusted with a very important function of protecting the human rights, but it is needless to point out, that the Commission has no unlimited jurisdiction nor does it exercise plenary powers in derogation of the statutory limitation. The Commission, which is the creature of statute, is bound by its provisions. Its duties and functions are defined and circumscribed by the Act. Of course, as any other statutory functionary, it undoubtedly has incidental or ancillary powers to effectively exercise its jurisdiction, in respect of the powers confided to it but the Commission should necessarily act within the parameters prescribed by the Act, creating it and the confines of jurisdiction vested in it by the Act. The Commission is one of the fora which can redress the grievances arising out of the violations of human rights. Even if it is not in position to take up the enquiry and to afford redressal on account of certain statutory fetters or handicaps, the



aggrieved persons are not without other remedies. The assumption underlying the observation in the concluding passage extracted above proceeds on an incorrect premise that the person wronged by violation of human rights would be left without remedy if the Commission does not take up the matter. ”

Thus, it is beyond the scope of powers and jurisdiction of the Commission to deal and decide this aspect.

(iv) It is beyond the scope of powers of the Commission to hold the Members of APMC, Nashik guilty and to give them punishment. If the complainant or the farmers feel aggrieved by the decisions etc taken by the Committee in respect of rates of the goods etc. then the aggrieved party has to avail proper remedy available under law. Almost all the issues raised in the complaint are touching to the business of the Committee. In that case the aggrieved party has to move the superior Authority or competent Appellate Authority / Forum as the case may be. In other words if the complainant feels aggrieved, he has to avail and pursue legal remedy, if any available under law. The Division Bench of High Court, Bombay in

A I R 2006 Bombay 44,

(State of Maharashtra Vs Sou Shobha Vitthal Kolte)

held that,

“Once a petitioner comes before Commission complaining of violation of human rights based on the right created



under a statute and the statute itself provides a mechanism for redressal by way of appeal, revision or otherwise, the Commission ordinarily should not entertain a complaint and direct the parties to pursue their remedy under the statute."

In view of the principle laid down in the decision referred to above it is incumbent upon the complainant to pursue legal remedy. In other words, in such circumstances, it will not be proper on the part of the Commission, to record findings or order on the merits of the case.

(v) Section 2 (d) of the Act of 1993 defines human rights as the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International covenants and enforceable by Courts in India. In view of the provisions of Sec. 18 of the Act of 1993, in the given circumstances of the case, I feel it just and proper to make following recommendations.

(A) The District Registrar Co-op Societies to constitute a separate Committee under the Chairmanship of Dy Registrar Co-op Societies or any other person nominated by him to hear and settle the disputes that arise among the farmers, businessman, purchasers, buyers, coolies etc. touching to the business of the APMC, Nashik. The District Registrar will be at liberty to



appoint one Member from each class of farmers, businessman, coolies etc. All issues or disputes about rates of goods, payments, facilities toilet etc. to be provided to the farmers, arrangement for restaurant, lodging, drinking water for the agriculturists etc should be amicably settled by the Committee. The role of Respondent APMC, Nashik is very important. Though number of facilities are provided by the Respondent APMC, Nashik to the farmers, businessman etc, they are either not adequate or not properly implemented. The Respondent APMC, Nashik is after all formed for the welfare of farmers. The Commission hopes and trusts that Respondent APMC, Nashik would act accordingly and would solve the problems of the farmers, coolies and would achieve the object for which the Committee was formed.

- (B) Number of allegations were made about harassment, beating, nuisance, ill-treatment, insulting treatment given to the farmers, Sr. Police Station given their action taken report in this matter. The Commission recommends the Commissioner of Police Nashik (Sr. Police Inspector - Police Station Panchwati) to



provide sufficient Police Staff for maintaining peace, law and order in the premises of Market yard and to see that no such incidents of assault on the farmers, etc occur in future. The investigation in pending matters needs to be completed as early as possible and charge sheets to be filed in Court at early date. Proper care should be taken to avoid traffic jam in the area of market yard. More care should be taken to reduce the instances of theft, assault on farmers etc. In the last immediate action should be taken in all the cases for the safety of the farmers and all the persons concerned.

- (C) Copy of this order be sent to District Registrar Co-op Societies, Nashik and Commissioner of Police, Nashik for information and necessary action according to law.
- (D) The copies be sent to these Authorities through the Secretary, State Human Rights Commission, Mumbai.

With these recommendations Case No. 310/2007-08 is disposed of accordingly.

Dated : 1 April 2009



V G Munshi
(Justice V G Munshi)
Member, SHRC