

The High Court Of Madhya Pradesh

SINGLE BENCH : HON'BLE MS. JUSTICE VANDANA KASREKAR, J.

WP-8681-2018

MOHANSINGH PANWAR AND OTHER

Vs

KISAN KALYAN AND KRISHI VIKAS VIBHAG

Shri Lokesh Bhatnagar, counsel for the petitioner.
Shri Ashish Upadhyaya, counsel for the respondent.

ORDER

(Delivered on 16/05/2019)

The petitioners have filed the present writ petition challenging the order dated 18/09/2017 as well as the appellate orders dated 21/08/2017 and 02/03/2017.

2 The petitioners were elected as member of Krishi Upaj Mandi Samiti, Mahidpur as per notification of the State of M.P. The petitioner no. 2 submitted notice of no confidence motion against the Chairman of Mandi Samiti along with petitioner no. 1 and 4 other elected members on 16/10/2014. The petitioner/s thereafter submitted number of representations to the respondent/s for taking action against respondent no. 6, who is the secretary of the Mandi Samiti. A complaint was also made to the higher Authority, however, as no action has been taken in the matter, therefore, the petitioner no. 1 filed Writ Petition no. 2311/2016 before this Court. The said writ petition was disposed of vide order ated 09/11/2016, thereby directing the Authority to take appropriate action in the matter within a period of six weeks. That, a meeting of Krushi Upaj Mandi Samiti was held on 31/12/2015 and in the said meeting, the petitioners had manhandled respondent no. 6 without any reason and had physically assaulted him and they torn official records of

the Mandi Samiti, therefore, FIR was registered against the petitioners under sections 332/34, 353 and 506 of IPC. That on 29/04/2016, an order of externment was passed against petitioner no. 1. Against which, petitioner no. 1 filed Writ Petition no. 4148/2016, which was stayed by this Court on 04/07/2016.

3 That respondent no. 2 issued show-cause notice to the petitioners on 25/04/2016, however as the petitioners did not accept the notice, therefore the said show-cause notice was published in newspaper. On 10/01/2016, the petitioners submitted reply of show-cause notice. That, after considering the reply submitted by the petitioners, the respondent no. 2 passed the order dated 02/03/2016, thereby expelling the petitioner from the membership of the Mandi Samiti. Against the said order, the petitioners have filed an appeal before the Appellate Authority i.e. respondent no. 1, who passed the order dated 21/08/2017 and 18/09/2017, thereby upholding the order passed by respondent no. 2 and also barred petitioners for their re-election for further six years. Being aggrieved by that order, the petitioners have filed the present writ petition before this Court.

4 Learned counsel for the petitioners has argued that the orders impugned are illegal, contrary and violative of principles of natural justice. No notice or any opportunity of hearing was given to the petitioners before passing the impugned orders. He further submits that the appellate orders are non-speaking orders and do not reflect any application of mind on the part of the appellate Authority.

5 Learned counsel for respondent nos. 2, 4 and 6 have also filed their reply and in the said reply, the respondent has stated that in the meeting of Krishi Upaj Mandi on 31/12/2015, the petitioners manhandled respondent no. 6 and physically assaulted him. They torn official records of the Mandi Samiti, therefore, the FIR was registered against the petitioners for the offence as

aforementioned. As the petitioners misconducted, therefore, respondent no. 2 issued show-cause notice dated 25/04/2016 and gave 15 days' time to file reply regarding misconduct committed by them. The petitioners repeatedly avoided the service of the said show-cause notice and therefore, the respondent had published the said show-cause notice in two daily newspapers. After publication of the notice, the petitioners appeared before respondent no. 2 on 23/07/2016 and received show-cause notice in person. Thereafter, they filed an application on 04/08/2016 and demanded the documents, on the basis of which, the said show-cause notice was served. On 26/09/2016, all the relevant and required documents had been supplied to the petitioners and further time was granted to file reply of the said show-cause notice. On 29/11/2016, the petitioners appeared in person and prayed for an adjournment. Thereafter, the matter was fixed on 20/12/2016 and it was again adjourned and fixed on 10/01/2017. On 10/01/2017, the petitioners filed reply of the said show-cause notice. No evidence was produced by the petitioners and therefore, the order has been passed on 02/03/2017. Against the said order, the petitioners have preferred an appeal under section 59 of the Krushi Upaj Mandi Act and the said appeal has been dismissed by the order dated 21/08/2017 and 18/09/2017. Learned counsel has further submits that looking to the conduct of the petitioners, order of expelling the petitioners from the membership of the Mandi Samiti for the period of six years has rightly been passed. The petitioners have been given full opportunity to defend their case. In light of the aforesaid, he submits that the petitioners are not entitled to get any relief. Accordingly, present petition deserves to be dismissed.

6 Heard learned counsel for the parties and perused the records.

7 Present petition has been filed challenging the orders dated 21/08/2017 and 18/09/2017 passed by respondent no. 1 as

well as the order of expelling from membership of Krishi Upaj Mandi Samiti i.e. 02/03/2017. These orders are challenged by the petitioners on the ground that no notice or any opportunity of hearing was given to them before passing the impugned orders.

8 After perusal of the appellate orders, I find that the orders passed by the Appellate Authority is cryptic one and it does not reflect any application of mind on the part of the appellate Authority. Thus, instead of deciding the case on merit, I deem it proper to remand the matter back to the appellate Authority to decide the appeal afresh.

9 In view of the aforesaid, present writ petition is partly allowed and the order impugned orders dated 21/08/2017 and 18/09/2017 are hereby set aside and respondent no. 1/ Appellate Authority is directed to re-consider the appeal preferred by the petitioners by passing speaking and reasoned order after giving opportunity of hearing to the petitioners, within a period of four months from the date of receipt of certified copy of this order.

C c as per rules.

(MS. VANDANA KASREKAR)
JUDGE

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