



Pradnya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 445 OF 2021

1. **Bhiku Anna Tambe,**  
Age-55 years, Occ.-Agriculture  
R/at-E-105, Grevillea, Magarpatta City,  
Hadapsar, Pune-411028
2. **Laxman Anna Tambe,**  
Age-48 years, Occ.-Agriculture  
Both Permanently R/at-Jeur,  
Tal.-Purandar,  
District-Pune., PIN 412305. ...Petitioners

*Versus*

1. **Ganpat Anna Tambe,**  
Age-65 years, Occ.-Agriculture  
R/at-Jeur, Tal.-Purandar,  
District-Pune. PIN-412305.
2. **Shree Someshwar Sahakari Sakhar  
Kharkhana Ltd.,**  
Co-op. Society registered under  
Maharashtra Coop. Societies Act, 1960  
Through its Chairman,  
Having its registered office at-  
Someshwarnagar, Tal.-Baramati,  
District-Pune. PIN-412 306.
3. **Sub Divisional Officer,**  
Daund-Purandar, having office at-  
Post-Purandar, Tal.-Purandar,  
District-Pune.  
PIN – 421301.
4. **Upa-Lokayukta, Maharashtra State,**  
Having office at- 1<sup>st</sup> Floor,

New Administrative Building,  
Madam Kama Road, Opp. Mantralaya,  
Mumbai – 400 032.

5. **Registrar, Office of Lokayukta & Upa-Lokayuktas,**  
Maharashtra State,  
1<sup>st</sup> Floor, New Administrative Building,  
Opposite Mantralaya,  
Mumbai – 400 032.
  6. **State of Maharashtra,**  
Through its Law & Judiciary Department ... Respondents
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**Mr Amol A. Gatne,** for the Petitioners.

**Mr Dilip Bodake,** for Respondent No.1.

**Mr Rushikesh C. Barge,** a/w Mr Adhik Kadam, for Respondent  
No.2.

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**CORAM     M.S. Sonak &**  
**Jitendra Jain, JJ.**  
**DATED:     17 October 2024**

**Oral Judgment (per M.S. Sonak J.):**

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
3. The challenge in this Petition is to the portion of the Lokayukta's order dated 6 December 2019 to the extent it directs Shree Someshwar Sahakari Sakhar Karkhana Ltd. (Respondent No.2) not to pay price towards the supply of sugarcane to Bhiku Anna Tambe and Laxman Anna Tambe (Petitioners) and instead, to pay this amount to Ganpat Anna Tambe (Respondent No.1).

4. The record shows that the Petitioners, Bhiku Tambe and Laxman Tambe, are the brothers of Respondent No.1, Ganpat Tambe. They are involved in a pending dispute regarding inheritance, etc. This dispute, inter alia, concerns property bearing Gat Nos. 235, 272, and 209 at Jeur, Taluka Purandar, and District Pune (“said property”).

5. At one stage, Respondent No.2-Co-operative Society passed a Resolution not to accept sugarcane from either the Petitioners or Respondent No.1 on account of their inter se disputes. The Petitioners raised Dispute No.102 of 2017 before the Co-operative Court to challenge such a Resolution.

6. The Co-operative Court, by order dated 8 January 2018, has made an interim order restraining Respondent No.2—Co-operative Society from acting on its Resolution No.28 dated 22 April 2017 until the final decision of the dispute. The matter is still pending before the Co-operative Court.

7. Mr Gatne states that the dispute regards inheritance and the entitlement of the three brothers is also pending before the Civil Court.

8. Respondent No.1 filed a complaint before the Lokayukta, alleging that the Talathi had prepared a fraudulent map in collusion with the Petitioners. Respondent No.2 alleged that based on this fraudulent map, the Petitioners obtained interim orders from the Co-operative Court. As a result of such interim order, Respondent No.2-Co-operative Society was paying the Petitioners for the sugarcane supplied through the property that actually belongs to Respondent No.1, i.e. Ganpat Anna Tambe.

9. The Lokayukta, by the impugned order dated 6 December 2019, found prima facie merit in the allegations

made against the Talathi and, therefore, directed an enquiry to be held and completed within a time-bound period. The Petitioners do not challenge this portion of the impugned order. Mr Gatne states that there was no collusion, but in any event, if any enquiry is ordered against the Talathi, it is for the Talathi to face the same.

**10.** However, Mr Gatne submitted that the further direction issued by the Lokayukta to Respondent No.2 - Co-operative Society to withhold the payments to the Petitioners and instead, make such payments to Respondent No.1, i.e. Ganpat Anna Tambe is ex-facie without jurisdiction. He submitted that such a direction directly affecting the Petitioners was made in proceedings to which the Petitioners were not even impleaded as parties. Accordingly, Mr Gatne submits that the impugned directions are without jurisdiction and, in any event, since they were made without even minimum compliance with principles of natural justice and fair play, they ought to be interfered with.

**11.** Mr Dilip Bodake, learned counsel for Respondent No.1, submitted that an enquiry had already been made into the conduct of the Talathi in preparing the map. He submitted that in such enquiry, the Petitioners were also heard. He submitted that the Lokayukta has merely taken cognisance of this enquiry report and directed further action against the Talathi. He submitted that the consequential orders were intra vires and just in the circumstances.

**12.** Mr Bodake submitted that since the Petitioners were already heard during the enquiry against the Talathi, there was no reason to implead the Petitioners in the proceedings before the Lokayukta, and the Lokayukta has not breached the

principles of natural justice by issuing consequential directions without hearing the Petitioners.

**13.** The rival contentions now fall for our determination.

**14.** The Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 (“the said Act”) makes provisions for the appointment and functions of certain authorities to investigate administrative action taken by or on behalf of the Government of Maharashtra or certain public authorities in the State of Maharashtra in certain cases and for matters connected therewith.

**15.** Section 2(d) of the said Act provides that a “grievance” means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration. Section 2(b) defines “allegation”, in relation to a public servant to mean any affirmation that such public servant has abused his position, was actuated in the discharge of his functions as a public servant by personal interest or improper or corrupt motives or is guilty of corruption or lack of integrity in his capacity as such public servant.

**16.** Thus, the Lokayukta is empowered to investigate allegations of public servants who abuse their position or are guilty of corruption or lack of integrity in their capacity as public servants. However, the Lokayukta is not empowered to decide purely civil disputes between the parties, particularly when courts and other quasi-judicial authorities are seized of such disputes.

**17.** Section 8(1) of the said Act provides that except as hereinafter provided, the Lokayukta or an Upa-Lokayukta shall not conduct any investigation under this Act in the case of a complaint involving a grievance in respect of any action if

the complainant has or had any remedy by way of proceedings before any Tribunal or Court of law.

**18.** In this case, the disputes between the Petitioners and respondent No. 1 are pending before the Civil and Cooperative courts.

**19.** The dispute before the Co-operative Court squarely concerns the validity of the Resolution made by Respondent No.2—Co-operative Society of not sourcing sugarcane from either the Petitioners or Respondent No.1 because of their inter se disputes. The Petitioners challenged this Resolution before the Co-operative Court, and the Co-operative Court has made an interim order. The effect of this interim order is that the Co-operative Society cannot refuse to source the sugarcane from the Petitioners and consequently pay the Petitioners for the same unless prevented by any other Court order.

**20.** In the above circumstances, the Lokayukta could not have entertained Respondent No.1's grievance qua the present Petitioners. The Lokayukta could have only entertained Respondent No.1's grievance qua the Talathi, a public servant. The consequential direction to Respondent No.2 – Co-operative Society is ex-facie without jurisdiction. In any event, such a direction visits the Petitioners with serious civil consequences. As a result of this direction, the amounts towards the supply of sugarcane by the Petitioners to the Respondent No.2 – Co-operative Society is now directed to be paid to the Respondent No.1. Such a drastic order could never have been made without minimum compliance with principles of natural justice. This is assuming that the Lokayukta had any jurisdiction in the first place to make such a direction.

**21.** For the above reasons, the directions in the impugned order regarding Respondent No.2—Co-operative Society not making any payments to the Petitioners or making such payments directly to Respondent No.1 are quashed and set aside.

**22.** By a communication dated 7 February 2020, the Respondent No.2 – Co-operative Society, relying upon the Lokayukta's impugned direction, informed the Petitioners that no payments would be made to the Petitioners. Now that the impugned direction of the Lokayukta is set aside, Respondent No.2 – Co-operative Society, will not be entitled to act on its letter dated 7 February 2020 unless, in the meanwhile, Petitioner No.1 secures any final or interim order from the appropriate Court or the Authority. The letter dated 7 February 2020 is now set aside.

**23.** At this stage, we clarify that we have set aside the above directions because the Lokayukta lacked jurisdiction to make the same and on the grounds of violating principles of natural justice and fair play. However, we have not examined the rights and entitlements of the disputing parties. This is because such issues are to be decided by the Civil Courts or the Co-operative Courts, as the case may be. Therefore, all parties' contentions on merits regarding their respective entitlement are kept open.

**24.** This order should not be misconstrued as some order on merits in favour of the Petitioners or against Respondent No.1. Therefore, once again, we clarify that all parties' contentions on the merits of their claims or entitlements are left open. Such claims should, therefore, be decided, uninfluenced by any of the observations in this order.

**25.** On instructions, Mr Gatne stated that he does not wish to press for relief regarding this Petition's prayer clause (e). In any event, now that we have granted the Petitioners relief, there is no question of considering a challenge to the constitutionality of said Act's provisions as an academic exercise.

**26.** The Rule is made absolute in the above terms. There shall be no order for costs.

**27.** At this stage, Mr Bodake requests some interim relief so that Respondent No.2—Co-operative Society does not release any payments to the Petitioners. As we have noted, the direction of the Lokayukta in this regard was ex-facie without jurisdiction and made without giving the Petitioners any hearing. Based on this direction, the Petitioners have been deprived of the amounts for the last four years. Accordingly, we cannot accede to the request that has been made.

**28.** All concerned must act on an authenticated copy of this order.

**(Jitendra Jain, J)**

**(M.S. Sonak, J)**