



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3746 OF 2026

1. Saibaba Pratishthan
Through its President,
Balaji Bhima Goud,
Age 50 years, Occu. Business,
R/o. Kinwat Road, Near Balaji Mandir,
Bhokar, Tq. Bhokar, Dist. Nanded.
2. Kai. Baba Goud Patil Primary School,
Through Its Head Master,
Shirinivas Hanmanlu Yakkulwar
Age 40 years, Occu. Service,
R/o. Kinwat Road, Near Balaji Mandir,
Bhokar, Tq. Bhokar, Dist. Nanded.
3. Bhagirathibai Secondary School,
Through Its Head Master,
Naresh Laxmanrao Pakalwad,
Age 46 years, Occu. Service,
R/o. Kinwat Road, Near Balaji Mandir,
Bhokar, Tq. Bhokar, Dist. Nanded.

..Petitioners

VERSUS

1. The State of Maharashtra
Through Principle Secretary,
Department of Marketing, Mantralaya,
Mumbai-400032.
2. The Director of Marketing,
3rd Floor, New Central Building, Pune-411001.
3. The Joint Director Marketing,
Office at Director of Marketing,
3rd Floor, New Central Building, Pune-411001.
4. Krishi Utpanna Bazar Samiti Bhokar
Though its Sabhapati / Chairman / Secretary,
R/o. Krushi Utpanna Bazar Samiti Office,
Bhokar, Tq. Bhokar, Dist. Nanded.

..Respondents

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Advocate for the Petitioners : Mr. V.D. Salunke h/f Mr. Taher Ali
Quadri

AGP for Respondent/State : Mr. S.P. Joshi
Advocate for Respondent No.4 : Mr. Sanjeev B. Deshpande, Senior
Counsel i/b Mr. S.R. Shirsath

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : APRIL 27, 2026

PRONOUNCED ON : MAY 05, 2026

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of parties.

2. Present petition takes exception to order dated 12.11.2025 passed by respondent no.3 - Joint Director of Marketing in Appeal bearing Outward No. PANAN-5C/Appeal No.26/2025/2025/7025, whereby petitioners appeal filed under Section 52-B of Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 ('APMC Act' for short) came to be rejected, thereby confirming directions given by APMC to petitioner under Section 32E to hand over possession of suit property.

3. Mr. Salunke, learned advocate appearing for petitioners submits that on 19.07.1968, Nanded Zilla Krushi Audyogik Sarva Seva Sahakari Society ('Society' for short) obtained lease of 40.14 R land from respondent No.4/APMC. The lease period was 99 years. In the year 2003, the Society sub-leased land to petitioners for running a school. The petitioners constructed building and at present, about 300 to 400 students are taking education in school. Meanwhile, Society gone under liquidation. In this backdrop, APMC passed a resolution to

repossess land by evicting petitioner no.1. The petitioner filed R.C.S. No.37 of 2009 against APMC seeking decree of perpetual injunction. On 19.08.2009, learned Civil Judge Junior Division, Bhokar temporarily restrained defendant/APMC from interfering into possession of petitioners. On 22.12.2021, suit came to be decreed and APMC is restrained from dispossessing petitioners without following due process of law. The counter claim of APMC for recovery of possession is also dismissed. The APMC preferred R.C.A. No.4 of 2022 before District Judge at Bhokar. The said appeal is pending.

4. On 24.11.2022, APMC cancelled lease of society vide document No. 1188/2022 in connivance with liquidator of society. The APMC alleged to have issued notice dated 07.10.2024 and 19.10.2024 under Section 32E of APMC Act. However, such notice was never served upon petitioner. On 12.10.2024, APMC made newspaper publication of notice directing petitioners to vacate premises. The petitioner objected said public notice. However, again on 13.03.2025, second publication was made. Mr. Salunke submits that impugned order dated 01.03.2025 purported to be passed by APMC under Section 32E of APMC Act is illegal. There were no grounds for action contemplated under section 32E of APMC Act. The petitioners were not given opportunity of hearing. Further, notice itself is in conflict with decree passed by Civil Court.

5. Per contra, Mr. Sanjeev Deshpande, learned senior advocate appearing for APMC submits that on 19.07.1968, APMC entered into registered lease deed with society as per terms and conditions mentioned thereunder. In the year 2002, society illegally sub-leased the plot to petitioners. The conditions in lease deed mandate that sub-lease cannot be made without prior permission of APMC. Admittedly, sub-lease was made without adhering to mandatory conditions. On 31.10.2002, APMC had unanimously resolved not to permit sub-lease by society. The sub-lease dated 01.06.2003 in favour of petitioners was illegal. On 07.02.2008, society gone under liquidation. The liquidator was appointed to complete winding process. The liquidator of society passed order for return of plot to APMC and informed that upset price of godown constructed by society on disputed plot is fixed at Rs.5,71,624/-. Accordingly, APMC has deposited the amount.

6. On 02.09.2022, liquidator of society executed deed of cancellation of lease in favour of APMC. On 13.09.2024, show cause notice under Section 32E was issued to petitioners. The notice was also published in newspaper. The second notice was published on 05.12.2024, thereby affording opportunity to petitioners. On 20.01.2025, Board of Directors passed a unanimous resolution to evict petitioners by 14.02.2025 and take over vacant possession of disputed plot along with constructed godown thereupon. Accordingly,

petitioners were called upon to vacate premises within 10 days, else action for taking physical possession with aid of police shall be initiated. It is submitted that Section 32E of the Act empowers APMC to recover possession by evicting illegal occupants. The decree passed by Civil Court would not be impediment, as APMC has followed due process of law. Respondent No.1 has considered all relevant aspects of matter and dismissed appeal, affirming decision of APMC.

7. Having considered submissions advanced by learned advocates appearing for respective parties and after going through material tendered into service by parties, this Court finds that petitioners received possession of disputed plot from leaseholder society of APMC. The sub-lease was effected in favour of petitioners without permission or sanction from APMC. In the year 2008, society has gone under liquidation. The lease deed in favour of society is already cancelled. Apparently, petitioners possession is absolutely illegal and without authority of law. The APMC has rightly passed resolution to evict petitioners and issued notice in terms of 32E of APMC Act.

8. At this stage, Mr. Salunke, learned advocate appearing for petitioners submits that petitioners are running a school and needs to find out alternate premises. If this Court protects petitioners possession for a reasonable period, petitioners would voluntarily vacate premises and hand over possession to APMC. Mr. Sanjeev

Deshpande, learned senior advocate appearing for APMC, on instructions, submits that reasonable time can be granted looking to interest of students. Mr. Salunke would further submit that APMC has leased out many properties for commercial purposes. The petitioners are ready to enter into fresh lease agreement with APMC. If APMC considers petitioners proposal and enters into lease, purpose would be served.

9. In light of aforesaid submissions without delving into further contentions, writ petition stands disposed of as under:

(i) The petitioners would be at liberty to submit comprehensive proposal to APMC for lease of suit land in favour of Petitioners. In case such proposal is submitted within a period of four weeks from today, APMC may consider the same on its own merits in terms of provisions of APMC Act and Rules framed thereunder with directives received from government and communicate its decision to petitioners within a period of two months thereafter.

(ii) The petitioners shall be entitled to continue possession over suit property for maximum period of six months from date of this order, subject to further decision of APMC on proposal of petitioners for grant of lease.

(iii) In case APMC declines petitioners proposal for grant of lease, petitioners shall hand over vacant possession of suit property to APMC without any impediment or obstruction.

(iv) The petitioners shall not be entitled for further extension of time to vacate premises on any count.

(v) The aforesaid arrangement shall remain in force only if petitioners tender an undertaking to this Court within two weeks from today to abide by aforesaid conditions.

(vi) In case of petitioners failure to tender undertaking, petition shall be deemed to be dismissed and respondent no.4/APMC shall be entitled to forthwith take over possession of suit premises.

10. Rule is made absolute in above terms.

(S.G. CHAPALGAONKAR, J.)