



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH AT NAGPUR

WRIT PETITION No.4105/2015

Agricultural Produce Marketing : **PETITIONER**
Committee, Amgaon, Tah. Amgaon,
Dist. Gondia, Through Administrator
Shri Anil Bhaiyalal Goswami,
Asst. Registrar, Co-operative Societies
Amgaon, Tah. Amgaon, Dist. Gondia

Vs.

1. National Bank for Agricultural and Rural : **RESPONDENTS**
Development (NABARD), Maharashtra
Regional Office Through Chief General
Manager, NABARD Maharashtra Region,
54 Wellesley Road, Shivaji Nagar, Pune
– 411 005
2. Assistant General Manager,
State Bank of India, Regional Business
Office – 3, Zonal Office S.V. Patel Marg,
Post Box No. 37, Nagpur 440001
3. State of Maharashtra,
Through Secretary, Department of Co-
operative, Marketing and Textile,
Mantralaya, Mumbai – 32
4. Director of Marketing, Maharashtra
State, Central Building, Pune – 01
5. Agricultural Marketing Board,
Maharashtra State Through General
Manager, Market Yard, Gultekdi, Pune



6. Union of India,
Through Deputy Agriculture Marketing
Advisor, Govt. of India, Ministry of
Agriculture, Department of Agriculture
Marketing and Cooperation,
Directorate of Marketing and
Inspection, Head Office, NH-IV,
Faridabad – 121001

7. State Bank of India,
Through Bank Manager, Amgaon
Branch, Amgaon, Tah. Amgaon, Dist.
Gondia

8. Branch Manager,
State Bank of India,
Amgaon Branch, Branch Amgaon,
Tah. Amgaon, Dist. Gondia

Mr. A.M. Ghare, Advocate for the petitioner

Mr. S.S. Hulke, AGP for Respondent / State

Mrs. Radhika Bajaj, Advocate for Respondent No.1

Ms. Neerja Chaubey, Advocate for Respondent No.6

**CORAM: URMILA JOSHI PHALKE AND
NIVEDITA P. MEHTA, JJ.**

Date of reserving the judgment : 21.04.2023

Date of pronouncing the judgment : 29.04.2026

JUDGMENT (PER : NIVEDITA P. MEHTA, J.)

1. By the present petition, the petitioner has sought declaration that respondent No. 1 - National Bank for Agricultural and Rural



Development (NABARD), cannot withdraw 25% subsidy of Rs. 22,41,000/- which was agreed in principle to be released to the petitioner - Committee for the project of construction of 57 commercial shops on the doctrine of “promissory estoppel” and also that the respondent Nos.1 and 6 to release 25% subsidy of Rs. 22,41,000/- to the petitioner – marketing committee in pursuance of their earlier sanction.

2. Brief facts of the case are as under:

The Petitioner Agricultural Produce Marketing Committee, Amgaon is a statutory body constituted under Section 11 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (In short, APMC Act), entrusted with the development and regulation of agricultural markets within its jurisdiction. The Petitioner resolved to construct a commercial complex consisting of 57 shops at the total cost of Rs. 89,64,000/-. The proposal was duly approved by the Respondent no. 4 Director of Marketing, Pune and necessary sanction under Section 12(1) of the APMC Act was granted on 02.02.2011.

3. For financing the project, the Petitioner vide Resolution No. 7/9 dated 21/10/2020 resolved to raise 50%, i.e., Rs. 66,00,000/- of the cost through a term loan from the State Bank of India, 25% by way of subsidy from Respondent no. 1-NABARD under the AMIGS Scheme,



and the remaining 25% from its own resources. Respondent No.1 sanctioned subsidy of Rs. 22,41,000/- and disbursed the first instalment of Rs. 11,20,000/-, which was credited to the loan account of the Petitioner. Acting upon such sanction, the Petitioner completed the construction on 31.03.2012.

4. The Petitioner further submitted its proposal to claim for the balance subsidy amount, which was also forwarded to Respondent no. 1 by Respondent no. 8. The claim was not rejected; instead, Respondent no. 1, by communication dated 14.03.2014, sought compliance to forward a joint inspection report along with supporting certificates. Despite repeated requests by the petitioner, the joint inspection was not conducted by the concerned authorities. Thereafter, the respondent No.1 relying upon the communication dated 25.02.2010 pertaining to non-waiver of market fee on perishable horticultural commodities, directed recovery of the subsidy already released and withheld the balance amount. The first instalment was accordingly recovered on 31.03.2015.

Aggrieved by the recovery of the subsidy already released and denial of the balance subsidy, the petitioner has filed the present petition by invoking the writ jurisdiction of this Court.

5. Mr. A.M. Ghare, learned Counsel appearing for the petitioner made the following submissions :



The respondent No.1 having sanctioned and partly disbursed the subsidy, induced the petitioner to undertake and complete the project. The petitioner has altered its position to its detriment by incurring substantial financial liability. The respondents are, therefore, estopped from withdrawing the subsidy and refusing the balance amount. The recovery of subsidy already disbursed without any fault attributable to the petitioner and in absence of compliance failure on its part is arbitrary and unreasonable.

6. He further submitted that the requirement of joint inspection as stipulated by respondent No.1 was not fulfilled due to the inaction on the part of the respondents themselves. The petitioner cannot be penalized for such administrative lapse. The ground of recovery namely, non waiver of market fee on perishable horticultural commodities is wholly inapplicable to the petitioner committee, as no such commodities are traded in its market area and, therefore, the action of the respondent is based on irrelevant considerations.

7. It is further contended that the sanction and partial release of subsidy created the legitimate expectations in favour of the petitioner that the entire subsidy would be released upon completion of the formalities. The impugned action defeats such expectations without justification. The petitioner being a statutory body with limited resources and had no source and no grant-in-aid had suffered serious



financial redress due to withdrawal of the subsidy which was factored into the project financing. The learned counsel further submits that there is no allegation of any misrepresentation or suppression on the part of the Petitioner, and in absence thereof, recovery of the amount already disbursed is wholly unwarranted. The learned counsel, therefore, prays that the impugned action of recovery be set aside and the Respondents be directed to release the balance subsidy amount. In support of these submissions, the learned Counsel for the petitioner has relied upon the following judgments:

- i. ***State of U.P. v. Birla Corporation Ltd., (2020) 20 SCC 320;***
- ii. ***Sheth Developers v. Municipal Corporation of Greater Mumbai, 2024 (2) Mh.L.J. 262.***

8. *Per contra*, Mrs. Radhika Bajaj, learned Counsel for Respondent no.1 opposed the petition and supported the impugned action. She submits that the challenge raised in the present petition is misconceived and devoid of merit. It is urged that the subsidy in question was governed by the Agricultural Marketing Infrastructure, Grading and Standardization (AMIGS) Scheme, the implementation of which is subject to the guidelines and directions issued by the Government of India through Respondent No. 6. In this regard, it is submitted that as early as 25.02.2010, Respondent No. 6 had made it



clear that subsidy under the scheme would be available only to those Agricultural Produce Marketing Committees where the State Government had waived market fee on perishable horticultural commodities.

9. It is submitted that the Petitioner does not dispute that the term loan in the present case was sanctioned subsequent to the said communication dated 25.02.2010. It is, therefore, contended that the Petitioner was not eligible for subsidy under the scheme from the outset. It is further submitted that Respondent No. 6, by its communication dated 01.12.2014, specifically directed that no fresh subsidy claims be entertained in such cases and that subsidy already released shall be recalled where the loans had been sanctioned after 25.02.2010. The said communication, also specifically referred to the present petitioner.

10. It is further contended that Respondent No. 1 acts merely as a channelizing agency for disbursement of subsidy and is bound by the guidelines and directions issued by the Government of India. It is submitted that Respondent No. 1 has no independent discretion to grant or continue subsidy in cases declared ineligible by Respondent No. 6. In such circumstances, the action of recalling the subsidy already released and declining the balance claim was taken strictly in



compliance with binding directions and cannot be termed as arbitrary or illegal.

11. It is also contended that the submission of the Petitioner that no cess is levied on perishable horticultural commodities within its jurisdiction is of no consequence, as the condition under the scheme relates to waiver of market fee by the State Government and not to the actual collection thereof by a particular APMC. It is, therefore, submitted that the Petitioner cannot claim exemption from the applicability of the said condition.

12. Learned counsel further submits that the approval of the project by the competent authorities or sanction of loan by the bank has no bearing on the eligibility of subsidy under the AMIGS Scheme, as grant of subsidy is subject to fulfilment of the conditions prescribed under the scheme and the directions issued by the Government of India from time to time. It is urged that the decision to recall the subsidy already released and to decline the balance claim has been taken in pursuance of the specific directions issued by Respondent No. 6 and in conformity with the governing policy framework. It is further submitted that mere sanction or partial disbursement does not confer any vested right upon the Petitioner. In that view, it is contended that the impugned action cannot be regarded as arbitrary or contrary to the applicable guidelines, and no fault can be attributed to Respondent No.



1. Therefore, the petition being devoid of merit, deserves to be dismissed and no interference is warranted.

13. Ms. Neerja Chaubey, learned counsel appearing for the respondent no. 6 submitted that AMIGS is a central sector scheme introduced by the Government of India with an objective of strengthening the agricultural marketing infrastructure. The scheme is reformed in and envisages for development of official market systems by encouraging structured reforms in State APMC laws, including the provisions for direct marketing, contract farming and private sector participation. The eligibility under the scheme is not absolute but conditional. Initially, the State of Maharashtra became eligible for implementation of the scheme upon amendment of the APMC Act.

However, by subsequent policy decision dated 25.02.2010, the Government of India introduced an additional mandatory condition that the assistance under the AMIGS would be available only to those States, which have waived the market fees on perishable horticultural commodities. The communication dated 25.02.2010, issued by the Department of Agriculture and Cooperation pursuant to binding policy, directed Government disbursement of subsidy under the scheme. The term loan of the petitioner's project was sanctioned on 30.06.2011. i.e. subsequent to the issuance of the policy directed dated 25.10.2010.



14. It is further contended that although the State of Maharashtra was eligible under the Scheme prior to the said communication, such eligibility stood restricted thereafter in absence of compliance with the aforesaid condition. The respondent no.6 being the nodal authority for implementation of the scheme issued a specific communication dated 01.12.2014, clarifying that the project in the State of Maharashtra, whether requisite reform had not been undertaken, were ineligible for subsidy and directing the subsidy already released in such cases be recalled. The said communication is in the nature of the policy clarification and is binding upon the respondent No.1.

15. It is an admitted position that the joint inspection as contemplated under the scheme was not carried out. Even assuming that the petitioner has addressed the communications, seeking such inspection, the fact remains that the essential condition precedent for release of the balance subsidy was not satisfied.

16. The reliance has been placed on the subsequent amendments and ordinance issued by the State of Maharashtra in the year 2016, purportedly bringing the State framework in line with reformed condition envisaged under the scheme. However, such subsequent developments cannot retrospectively confer eligibility upon the projects, which were at the relevant time ineligible under the governing policy. In view of such condition, policy nature of subsidy scheme and



in absence of compliance with both substantive and principal requirements, the petitioner cannot assert any enforceable right to either retention of the subsidy or disbursement or release of the balance amount.

17. Having heard the learned counsel for the parties and upon a careful consideration of the pleadings and material placed on record, this Court finds that the core issue for consideration is whether the respondents are justified in recalling the subsidy already sanctioned and partly disbursed instalment to the Petitioner under the AMIGS Scheme and in refusing to release the balance amount, primarily on the basis of the communication dated 25.02.2010 issued by the Government of India, despite prior sanction and completion of the project.

18. It is not in dispute that the petitioner's project was duly approved by the competent authorities and that the respondent No.1 sanctioned subsidy of Rs. 22,41,000/- out of which Rs. 11,20,000/- was actually disbursed. The petitioner - Committee acting upon such sanction and representation, proceeded to undertake and complete the project by incurring substantial financial liability, including availing institutional finance. Thus, the conduct of the respondent unmistakably created a clear representation that the petitioner was eligible for subsidy under the scheme. The petitioner completed construction of



the commercial complex on 31.03.2012. The entire project was executed on the strength of the financial structuring, which included the subsidy component. The petitioner, therefore, altered its position irreversibly based on the assurance extended by the respondent no. 1, The withdrawal of the subsidy not only defects the financial viability of the project, but also causes manifest prejudice to a statutory body discharging public functions.

19. The respondent No.1 itself required a joint inspection as a pre-condition for release of the balance subsidy. However, such inspection was admittedly not carried out. The petitioner had called upon the authorities to undertake the inspection vide communication dated 01.01.2015 yet the respondents failed to act. The petitioner cannot be penalized for inaction or administrative lapse attributable entirely to the respondent No. 1. A party cannot take advantage of its own wrong to defeat the legitimate claim.

20. The respondent Nos.1 and 6 have relied upon the policy directives requiring waiver of marketing fees on perishable horticultural commodities at the State level. However, two aspects assume significance, viz., (1) Respondent Nos.1 & 6 themselves processed, sanctioned and partly disbursed the subsidy after issuance of the said directives, (2) At no stage prior to sanction / disbursement the petitioner was declared ineligible on the ground of waiver of



marketing fees. This conduct amounts to conscious decision by the implementing agency to treat the petitioner as eligible under the scheme. Nay, creating legitimate expectations in the petitioner. Having done so, treating the petitioner as eligible and extending benefit, it is not open to the respondents to retrospectively apply the condition to the detriment of the petitioner.

21. The law does not permit a public authority to adopt a position which is inconsistent with its own earlier conduct, particularly when such conduct has induced a party to act to its detriment. The Petitioner, in the present case, has not merely relied upon a promise but has acted upon it and completed the project. The consequences of withdrawal have caused the Petitioner with serious prejudice.

22. In this context, the doctrine of promissory estoppel, as well as legitimate expectation, assumes critical importance.

The doctrine of promissory estoppel, as evolved in judicial precedents, rests upon the principle that where one party has, by its representation, induced another to alter its position, it would be inequitable to permit the former to retract from such representation. In the present case, the elements necessary to attract the doctrine are clearly satisfied. The representation was definite, the reliance was real, and the alteration of position is evident from the completion of the



project. No overriding public interest has been demonstrated by the Respondents which would justify a departure from this principle.

Closely related to this is the doctrine of legitimate expectation. The consistent conduct of the Respondents in processing, sanctioning, and partly disbursing the subsidy created a reasonable expectation in favour of the Petitioner that, the benefit would be continued and completed in accordance with the scheme. Such expectation, once created, cannot be defeated arbitrarily or without adequate justification. In the present case, the subsequent withdrawal of the subsidy, without any change in the underlying factual matrix, defeats such expectation and renders the action of the Respondents unfair and arbitrary inasmuch as it creates a false assurance and deprives the Petitioner of fair treatment.

The principle laid down in *M/s Motilal Padampat Sugar Mills Co. Ltd. vs. State of U.P. & Ors., 1971 AIR 621* applies with full force, wherein it was held that the Government is bound by its promise once the promisee has acted upon it. Similarly, in *Pawan Alloys & Casting Pvt. Ltd. Meerut vs. U.P. State Electricity Board & Ors., AIR 1997 SC 3910* it has been held that a concession once granted and acted upon cannot be withdrawn to the prejudice of the beneficiary in the absence of overriding public interest.



Similarly, recently, the Apex Court in *IFGL Refractories Ltd. v. State of West Bengal CIVIL APPEAL NO. 66 OF 2026 (Arising out of Special Leave Petition (C) No. 7013 of 2019)*, held that once incentives are extended and acted upon, their withdrawal in a manner prejudicial to the beneficiary would be impermissible. The relevant paragraphs are reproduced herewith for reference:

115. According to this Court, the true principle of promissory estoppel seemed to be that where one party has, by his words or conduct, made to the other a clear and unequivocal promise which is intended to create legal relations or effect a legal relationship to arise in the future, knowing or intending that it would be acted upon by the other party to whom the promise is made. Where it is in fact so acted upon by the other party, the promise would be binding on the party making it, and he would not be entitled to go back upon it, if it would be inequitable to allow him to do so, having regard to the dealings which have taken place between the parties. This would be so irrespective of whether there is any pre-existing relationship between the parties or not.

116. It was further observed that it is not necessary, in order to attract the applicability of the doctrine of promissory estoppel, that the promisee, acting on the promise, should suffer any detriment. What is necessary is only that the promisee should have altered his position in reliance on the promise. This Court was of the view that the doctrine of promissory estoppel is also applicable against the government, where the government makes a promise knowing or intending that it would be acted upon by the promisee. Where, in fact, the promisee, acting on it, alters his position, the government would be held bound by the promise. The promise would be enforceable against the government at the instance of the promisee, notwithstanding that there is no consideration for the promise and the promise is not recorded in the form of a formal contract.

XXXXX



133. *This litigation is a fine specimen of the bureaucratic lethargy. It is this bureaucratic lethargy which gave rise to this long drawn litigation. This Court in many of its decisions has reminded various State Governments that if the object of formulating the industrial policy is to encourage investment, employment and growth, the bureaucratic lethargy of the State apparatus is clearly a factor which will discourage entrepreneurship.*

134. *The State must abandon the colonial conception of itself as a sovereign dispensing benefits at its absolute discretion. Policies formulated and representations made by the State generate legitimate expectations that it will act in accordance with what it proclaims in the public domain. In the exercise of all its functions, the State is bound to act fairly and transparently, consistent with the constitutional guarantee against arbitrariness enshrined in Article 14 of the Constitution of India. Any curtailment or deprivation of the entitlements of private citizens or private business must be proportional to a requirement grounded in public interest. This understanding of the limits of State power has been recognised and reiterated by this Court in a consistent line of decisions. As an illustration, we would like to extract this Court's observations in **National Buildings Construction Corporation** (supra):*

“The Government and its departments, in administering the affairs of the country are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without any iota of abuse of discretion. The policy statements cannot be disregarded unfairly or applied selectively. Unfairness in the form of unreasonableness is akin to violation of natural justice.”

*(See: **The State of Jharkhand and Ors. v. Brahmputra Metallics Ltd, Ranchi and anr.**, reported in (2023) 10 SCC 634)*

23. Such expectation, once created, cannot be defeated arbitrarily or without adequate justification. In the present case, the subsequent



withdrawal of the subsidy, without any change in the underlying factual matrix, defeats such expectation and renders the action of the respondents unfair and arbitrary inasmuch as it creates a false assurance and deprives the petitioner of fair treatment.

24. Learned counsel for the Petitioner has placed reliance upon *State of U.P. v. Birla Corporation Ltd.*, and the decision of this Court in *Sheth Developers v. Municipal Corporation of Greater Mumbai*, to contend that the State is bound by its representation where a party has acted upon it. This Court finds that the principles emerging from the aforesaid decisions squarely apply to the facts of the present case, and the reliance placed by the Petitioner is well founded.

25. The recall of subsidy already disbursed after lapse of suitable time and after completion of project is manifestly arbitrary and incoherent with settled jurisprudence in this regard. The petitioner is a statutory body with limited financial resources has been subjected to a financial hardship due to shifting stands of the authority.

26. In matters of policy, the Government undoubtedly retains the authority to modify or withdraw incentives prospectively. However, such power must be exercised in a manner that does not unsettle completed transactions or operate to the prejudice of parties who have already acted upon the earlier policy. The balance between policy discretion and fairness must be maintained. In the present case, the



impugned action tilts the balance in favour of policy at the cost of fairness, which cannot be sustained.

27. The petitioner has specifically asserted that it does not levy marketing fees on perishable horticultural commodities, as such commodities are not traded within its jurisdiction. This assertion has not been effectively controverted. In such circumstances, stringent application on the State whether the condition, without examining its actual applicability to the petitioner, results in unjust and mechanical denial of benefit.

28. It is also relevant that the State of Maharashtra, has in due course undertook the amendment in the year 2016 with the policy requirements. This reinforces the position that the scheme was intended to promote reforms rather than to penalize the completed projects retrospectively. Denying subsidy in the present case would defeat the very object of infrastructure development under the scheme. The petitioner is a statutory market committee functioning for the benefit of the agriculturalist. The project in question has already been completed and is serving the public purposes / interest. On the other hand, denial of subsidy does not advance any overriding public interest and merely results in financial hardship to the petitioner. Equity, therefore, clearly tilts in favour of the petitioner.



29. In view of the aforesaid analysis, this Court is of the considered opinion that the action of respondent Nos.1 and 6 having sanctioned and partly disbursed the subsidy are bound by their representation and cannot withdraw the same to the prejudice of the petitioner. The petitioner having completed the project based on such representation, the doctrine of promissory estoppel is squarely applicable. The failure to conduct joint inspection is attributable to the respondent Nos.1 and 6 and cannot be used to deny the petitioner to its legitimate entitlements. The recall of subsidy already disbursed and refusal to pay balance amount is arbitrary, unreasonable and violates Article 14 of the Constitution of India. The policy condition relied upon by the respondents cannot be applied retrospectively in the facts of the present case.

30. Accordingly, writ petition is allowed with the following directions.

- i. The action of the respondent No.1 in recalling the subsidy amount of Rs. 11,20,000/- is quashed and set aside;
- ii. The respondents are directed to refund the recovered amount Rs. 11,20,000/- within a period of 12 weeks from the date of this judgment;
- iii. The respondents are further directed to process and release the balance subsidy amount of Rs. 11,40,000/- to the



petitioner subject to verification of the condition of completion of formalities within a period of 12 weeks.

No order as to costs.

Rule is made absolute in the above terms.

(NIVEDITA P. MEHTA, J.)

(URMILA JOSHI PHALKE, J.)

MP Deshpande