

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

LD – VC – CW 16/2020

B.T.B. Sabji Bhaji Vyapari Association
Vs.
Municipal Council, Bhandara and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Mohit Khajanchi, Advocate for the petitioner

CORAM : MANISH PITALE, J.

DATED : APRIL 30, 2020

Hearing was conducted through video conferencing. The learned counsel appearing for the parties stated that the audio and video quality was proper.

2. Heard learned counsel for the petitioners. It is the grievance of the petitioners that although the respondent No.1 – Municipal Council is not entitled to collect / recover market fees from the petitioner No.1, attempts are being made by respondent No.1 to recover such amount. It is specifically stated in paragraph 8 of the writ petition that on 24/04/2020, the concerned officer of the respondent No.1 – Municipal Council informed the staff of respondent No.2 contractor that market fees would be recovered from the premises of the petitioner No.1.

3. Apart from the fact that according to the petitioners, the respondent no.1 is not entitled to recover market fees, attention of this Court is invited to order dated 26/03/2020, passed by a Bench of four Hon'ble Judges at the principal seat of this Court, wherein it has been stated as follows :

“Considering the prevalent shut down and other issues, we hope that Government as also municipal authorities and other agencies or instrumentalities shall also be slow in taking coercive steps so as to drive the citizen to court of law in the meantime.”

4. The learned counsel for the petitioners has also invited attention of this Court to an order dated 11/03/2020, passed by the Division Bench of this Court in Commercial Appeal No. 2/2020, whereby an ad-interim order restraining the respondent No.1 – Municipal Council from recovering such market fees has been already passed in favour of the petitioners, in the context of similar agreement pertaining to an earlier period of time.

5. On this basis, it is submitted that the respondent No.1 is not entitled to take any coercive action against the petitioners for recovery of market fees.

6. This Court is of the opinion that in view of material brought before this Court, strong *prima facie*

case is made out in favour of the petitioners.

7. Hence, issue notice, returnable in 8 weeks.

8. In the meanwhile, there shall be ad-interim relief in terms of of prayer clause (b).

JUDGE