

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

WRIT PETITION NO.1947 OF 2015

RAM SURYABHAN KHADE AND ANOTHER
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. PR Katneshwarkar, Adv.
h/for Mr. Suryawanshi Kamlakar J.
Mr. PP More, AGP for Respondent 1;
Mr. Kadam S.K., Adv. For R/2
Mr. Choudhary D.J., Adv. For R/4

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 5th March, 2015.

PER COURT :

1) The petitioners are praying for issuance of writ of mandamus, order or directions in the like nature to the respondents to complete the process of elections of primary co-operative societies, who are the members of Respondent No.4-Bank before preparation and finalization of the voters list for the purposes of holding the elections to Respondent No.4-Bank.

2) It is pointed out by learned Counsel appearing for Respondent No.2 - State Co-operative Election Authority that there are 5223 registered

societies operating within the area of operation of Respondent No.4-Bank, out of these societies, 740 are registered as members of Respondent No.4.

. It is further informed that in case of 362 primary co-operative societies, the term of their managing committees has come to an end and elections of such societies were due. In case of 42 societies, the process of election has been completed. So far as 102 societies are concerned, the process of election is in progress.

. It is further informed that in case of 218 societies, the process of electing managing committees of the primary societies, has not yet commenced. It is further informed that in case of 57 societies out of 102 societies, whose election process has been set in motion, same can be completed and elected managing committees can assume office before 31st March, 2015. It would be possible for such 57 societies to send their delegates or nominees for the purpose of elections to Respondent No.4. So far as remaining societies are concerned, it is contended that they would be governed by the provisions contained in Rule 10 of The Maharashtra Co-operative Societies (Election to Committee) Rules,

2014 (for short, the Rules of 2014). Sub-rule (4) of Rule 10 of the Rules of 2014, provides that a society which has communicated the name of its representative shall, by like resolution, be permitted to change the name of its representative only in case of death of the representative or where there is newly elected committees of the member society not later than five days before the last date for making nomination. It would be also relevant to consider Section 166(4) of the Maharashtra Co-operative Societies Act, 1960, which relates to Repeal, Saving and re-construction.

- 3) Sub-section (4) of Section 166 reads thus, -
- "Notwithstanding anything contained in this Act, as amended by the Maharashtra Co-operative Societies (amendment Act, 2013), but subject to the provisions of sub-section (15) of Section 73CB, the committees of which the elections become due after the 31st March, 2013, shall continue till the elections to such societies are held under the provisions of this Act as amended by the said Act. All the orders of the Administrator, Liquidator or the Registrar shall continue for the period mentioned in such order as if such orders are passed under

this Act as amended by the said Act. All proceedings pending before the Registrar, person authorized by him, Liquidator or any other officer, or authority or court under the provisions of this Act shall stand transferred wherever necessary to the Registrar or any corresponding officer or, authority or court under the provisions of this Act as amended by the said Act and shall be continued or disposed of by such Registrar, officer, authority or court in accordance with the provisions of this Act as amended by the said Act;

Provided that, any such committee shall continue till the newly elected committee assume the office."

4) Thus, in view of the provisions contained in sub-section (4) of Section 166 of the Maharashtra Co-operative Societies Act, all the primary societies, whose elections become due, after 31st March, 2013, elections to such societies are entitled to continue till elections to such societies are held in accordance with the provisions of the Act. On proper interpretation of the aforesaid provision, it shall have to be presumed that, all those managing committees of primary societies, whose elections

become due after 31st March, 2013, shall be entitled to send their representatives for the purpose of elections to Respondent No.4-Bank. The import of sub-section (4) of Section 166 is that only in case of such of those primary societies, whose elections become due after 31st March, 2013, the managing committee of such society, shall be deemed to continue in office and shall have authorization to send their representative for elections to the Federal society, i.e. Respondent No.4. In case of such those societies, whose elections to managing committee became due before 31st March, 2013, it cannot be construed that such committees continue for the purpose of sending their representatives to the Federal society, i.e. Respondent No.4-Bank on proper construction of Section 166(4) of the Act. In the instance case, the Respondent No.2- Election Authority shall have to take appropriate care while finalizing the voters list.

5) Merely because in case of certain primary societies, the term of managing committees has come to an end and that elections for electing new committee has not been held, it shall not be

construed as an impediment for continuing with the process of election of Respondent No.4-bank.

6) It is informed by the counsel appearing for Respondent No.2, that in view of amendment to Section 73CB, the State Election Authority is bound to complete the process of election of Respondent No.4 before 30th June, 2015.

7) In view of the mandate of law, i.e. Section 73CB sub-section (15), the elections of Respondent No.4-Bank cannot be permitted to be postponed beyond the prescribed date. The Respondent No.2 shall continue with the process of elections and shall complete the same in observance of the provisions of the Act and the Rules and in adherence to the observations made in the instant order.

8) In view of above, writ petition is disposed of.

. Parties to act on authenticated copy of this order.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/