

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.11202 OF 2014 WITH
CIVIL APPLICATION NO.296 OF 2015

Manik Baburao Kale

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.Satyajit S. Bora, advocate for the petitioner
Mr.S.S.Tope, Government Pleader for Respondents No.1 to 3 & 5.
Mr.V.D.Salunke, advocate for Respondent No.4.
Mr.R.J.Nirmal, advocate for the applicant-intervener in C.A.
No.296 of 2015.

WITH
WRIT PETITION NO.7171 OF 2014

Madhukar s/o Baburao Kate
and another

Petitioners

Versus

The State of Maharashtra & others

Respondents

Mr.R.K.Temkar, advocate for petitioners.
Mr.S.S.Tope, Government Pleader for Respondents No.1 to 3.
Mr.P.R.Nagare, advocate for Respondent No.4.

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

DATE : 21st January, 2015

PER COURT:

Heard learned Counsel for respective parties in both
the petitions.

Facts from W.P.No.11202 of 2014:

1 The petitioner is one of the voters whose name is enlisted in the list of voters for elections to the Managing Committee of Manwat Agricultural Produce Market Committee. He is seeking a direction to Respondent-District Deputy Registrar not to proceed with the elections of the Manwat Agricultural Produce Market Committee without first holding elections to the primary Co-operative Societies whose elections are due since last 3 to 4 years.

2 It is the contention of petitioner that as per Section 13 of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963, 15 members of the Managing Committee of Agricultural Produce Market Committee are required to be elected from the agriculturists residing in the market area and out of the said members, 11 shall be elected by the members of the Managing Committees of the cooperative Societies which are operating within the market area of Agricultural Produce Market Committee. It is contended that there are 447 voters from the Co-operative Societies constituency listed in the provisional voters' list prepared by the District Deputy Registrar. Out of such 399 voters, 197 voters i.e. almost 50% voters are the members of the Managing Committee whose term has expired some 3 to 4 years prior to enlistment of their names in the list. The petitioner, as such, contends that since more than 50% of the voters are the members of the Managing Committee whose term has expired since last $\frac{3}{4}$ years, it would be in the fitness of things to hold elections of the primary Co-operative societies operating within the area of A.P.M.C. and

thereafter to proceed to hold elections to elect Managing Committees of the A.P.M.Cs.

3 It is not a matter of dispute that out of 33 Vividh Karyakari Sahakari Societies, operating within the area of operation of A.P.M.C. Manwat, elections to 16 Vividh Karyakari Sahakari Societies are due and elections are not set in motion even after expiry of term of Managing Committee of such Co-operative societies. These facts have been disclosed in the affidavit-in-reply presented on behalf of Respondents No.2 and 3. It is further disclosed in the affidavit-in-reply that out of these 16 primary Co-operative Societies, election process of one Co-operative Society has been completed and out of remaining 15 co-operative societies, six societies are categorised in "B" Class and 9 Societies are categorised in "C" Class. It is further stated in the affidavit-in-reply tendered on behalf of Respondents No.2 and 3 that elections of "B" Class Co-operative Societies would be completed within a period of 70 days and in respect of "C" class societies, the process would be completed within 35 days. It is contended that the process of election for electing Managing Committees of Vividh Karyakari Societies, operating within the area of operation of A.P.M.C., will be completed within three months.

4 Our attention is invited to the order of the Division Bench of this Court at Nagpur Bench in Writ Petition No.3781 of 2014 and other companion matters. Petitions were presented before the Nagpur Bench of this Court seeking a direction to Respondent-State to hold elections to Agricultural Produce Market Committees. It was brought to the notice of the Court that there

are several member Societies of A.P.M.Cs. operating in the area of operation of such A.P.M.Cs. and term of Managing Committees of such Societies has come to an end and elections are due. It was further stated on behalf of the State that so far as such of those Agricultural Produce Market Committees where elections to the Agricultural Credit Cooperative Societies are already concluded, the process of elections would be completed within three months and the process of electing Managing Committees of Agricultural Produce Market Committees would be completed within six months.

5 We have specifically asked the learned Government Pleader, appearing on behalf of the State, as to whether declaration made on behalf of the State before the Nagpur Bench of this Court is uniform and would apply to the instant matters also. It has been pointed out that the statement is applicable uniformly and further instructions, in pursuance to the order passed by the Division Bench at Nagpur, have already been issued. Learned Government Pleader has further brought to our notice a letter dated 01.01.2015, issued by the Director of Marketing, Maharashtra State, Pune, informing all the District Deputy Registrars in the State of Maharashtra to take steps for holding elections to the primary Co-operative Societies and thereafter to proceed to hold elections for electing Managing Committees of the Agricultural Produce Market Committees. The Director of Marketing has also referred to the order passed by the Division Bench of this Court at Nagpur Bench on 03.12.2014 in Writ Petition No.3781 of 2014 and companion matters, wherein such statement is made on behalf of the State.

6 Our attention is also invited to the directives issued by the State Co-operative Election Authority, in pursuance to the decision rendered by the Division Bench of this Court at Nagpur Bench in Writ Petition No.3781 of 2014 and companion matters. The State Co-operative Election Authority has directed to hold elections for electing Managing Committees of the primary Cooperative Societies operating within the area of operation of Agricultural Produce Market Committees, whose elections are due, within the time prescribed in the communication dated 19.12.2014.

7 It is, thus, contended that the directives issued by the Division Bench at Nagpur are uniformly applicable and steps for electing Managing Committees of the Agricultural Produce Market Committees would be taken immediately after holding elections to the primary Co-operative Societies whose elections are due, within the time allowed by the Division Bench of this Court at Nagpur Bench.

8 In the instant matters, it has been pointed out that voters' list has been finalised and programme of elections has been declared. In view of the decision of the State Government and the order issued by the Division Bench at Nagpur Bench, it would be incumbent upon the Respondent-State to proceed to take further steps for holding elections for electing Managing Committees of the Agricultural Produce Market Committees, after holding elections to the Managing Committees of the primary Cooperative Societies operating within the area of operation of Agricultural Produce Market Committees. The State Government shall have to take

steps for holding elections for electing Managing Committees of the A.P.M.Cs. in accordance with provisions prescribed under A. P. M.C. (Regulation) Act, 1963 and Rules framed thereunder.

9 Learned Counsel appearing for Respondent No.4-Agricultural Produce Market Committee has raised objection to the petition mainly on the ground that since process of election has been set in motion, it would be impermissible for this Court to stall the process and issue any directions. Reliance is placed on the judgment in the matter of **Digambar Sadashiv Ghorpade and others Vs. Election Registration Officer, Kolhapur and others**, reported in 2003 (1) Mh.L.J. 669. The Division Bench of this Court, referring to the judgment in the matter of **S.S.S.J.S.S.D.U. Sanstha Vs. State of Maharashtra**, reported in 2002 (1) Mh.L.J. 659, has observed that the preparation of electoral roll is the part of election process and if there is any breach of the rules in preparing the electoral roll, same can be called in question after declaration of the results of the election by means of an election petition before the Tribunal.

10 It is contended that in view of the judgment in the matter of **S.S.S.J.S.S.D.U. Sanstha** (*supra*), it would be impermissible for the High Court to cause interference in the ongoing election process. Referring to the Regulations framed under the A.P.M.C. Act, it is contended that due care is taken under the regulations for meeting the contingency, as contended by the petitioner in the petition and as such, no directions are necessary.

11 As has been mentioned in the above referred paragraphs, since the State Government has taken a decision in pursuance to the directives issued by the Division Bench at Nagpur in Writ Petition No.3781 of 2014, to complete the process of election for electing Managing Committees of Agricultural Produce Market Committee after holding elections to primary Co-operative Societies operating within the area of operation of Agricultural Produce Market Committees within a period of six months from the date of order and since the State Government is adhering to the directives issued by the Division Bench of this Court at Nagpur and since already suitable instructions have been issued by the concerned authorities responsible for taking elections to the primary Co-operative Societies and Agricultural Produce Market Committees, we do not propose to issue any directions in the instant petitions.

12 For the reasons recorded above, both the writ petitions stand disposed of.

 In view of disposal of writ petitions, pending Civil Application does not survive and stand disposed of.

P.R.BORA
JUDGE

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R.M.BORDE
JUDGE