

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

WRIT PETITION NO. 8328 OF 2015

Bhagwanrao s/o Madhavrao Alegaonkar (Patil),
Age 61 years, Occup: Agril. and Social service,
r/o Alegaon, Tq. & Dist. Nanded.

...PETITIONER

VERSUS

1. The State of Maharashtra
through its Secretary,
Co-operation, Marketing & Textile
Department, Mantralaya,
Mumbai 32
2. The Director of Marketing,
Maharashtra State,
Pune.
3. The District Collector,
Nanded.
4. The District Deputy Registrar,
Co-operative Societies,
Nanded.
5. The Agricultural Produce
Market Committee, Nanded,
Tq. & Dist. Nanded, through its
Administrator.

...RESPONDENTS

...

Mr. V.S.Panpatte, Advocate, for the petitioner
Mrs. A.V.Gondhalekar, AGP for respondent nos. 1 to 4.

...

CORAM: R.M.BORDE

AND

P.R.BORA, JJ.

Date: September 1st, 2015

...

PER COURT :-

1. Heard. This Court, on 1st July, 2015, disposed of Writ Petition Nos.2261/2015, 2139/2015 and 3391/2015, on being informed that the preliminary voters' list for holding the elections of Agricultural Produce Market committees at Nanded, Naigaon and Loha, would be declared by 3rd of July, 2015, and on publication of the preliminary voters list, objections were required to be raised within one month and immediately thereafter the final list of voters would be published. It was further observed in the said order that since the process of elections is proposed to be set in motion from 3rd July, 2015, interference in the order of appointment of an Administrator, is not warranted.

It was expected that since the election programme was proposed to be set in motion from 3rd July, 2015, the Administrator would continue in the office, and the process of election would be continued.

2. The instant writ petition is presented making a request for issuance of directions for considering the setting up of a separate Agricultural Produce Market Committee for Ardhapur with attachment of 51 villages of Ardhapur Taluka, and 33 villages of Mudkhed Taluka to the Agricultural Produce Market Committee, Mudkhed. It is stated that proposal is tendered and is pending consideration with the respondent authorities. It is also requested to stay the process of elections until consideration of such proposal.

3. This petition was taken up for consideration on 11th August, 2015. A notification issued by the State Government,

directing postponement of elections was pointed out. The notification records that in the cases where there are no directions issued either by the High Court, or the Supreme Court, or that the process of election has not reached the stage within the contemplation of Rule 43(1) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967, the elections shall stand postponed for a period of six months. The Courts attention was invited to the said notification, and ad interim order directing postponement of the election came to be issued on 11th August, 2015.

4. Although a copy of the earlier order passed by this Court is made part of the petition, at the time of the arguments, attention of the Court was not invited to the said order, and neither the petitioner, nor the Counsel appearing for respondent State, pointed out the earlier order passed by this Court.

5. It is now being canvassed that, since the order passed by the Court on 1st July, 2015, is part of the compilation of the petition, it will be deemed that the same is pointed out to the Court. We do not agree to the position. We, both the members of the Division Bench, are of the firm view that the attention of the Court was not invited to the said order before securing the order dated 11th August, 2015, either by the petitioners, or by the Counsel representing the State Government, which has resulted in issuance of two conflicting orders.

6. It is a matter of record that on any given date, there are about 70 to 100 matters before the Court, and the

Court is required to rely upon the submissions made before the Court. Relying upon the submissions, it is the practice of the Court to pass orders. If the attention of the court is not invited to a particular fact, there is always a likelihood of passing of erroneous or conflicting orders. It is the responsibility of the members of the Bar, and the Counsel appearing for the State Government, to assist the court in the matter of administration of justice. This is one of the instance where, we are sorry to state that, since attention of the Court was not invited to the relevant order, it has resulted in issuance of conflicting order.

Without going into the details, we deem it proper to recall the order passed by this Court. The order passed by this Court on 11th August, 2015 is recalled.

After hearing Counsel for the petitioner, we are of the opinion that no indulgence can be shown to the petitioner and, more specifically, in the background of facts stated here-in-above.

Writ Petition (No.8328 of 2015) stands rejected.

(P . R . B O R A)
JUDGE

(R . M . B O R D E)
JUDGE

...