

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

5 WRIT PETITION NO. 8962 OF 2015

VITTHAL TRIMBAK JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Patil Pradip R.
AGP for Respondents: Mr. S.G. Karlekar
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CORAM : R. M. BORDE & P.R. BORA, JJ.
Date: September 07, 2015
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PER COURT :-

1 The petitioners are praying for issuance of writ of mandamus or any other appropriate writ or direction to the respondent Nos.2 to 5 to conduct the elections of Chairman and Vice Chairman of the agricultural produce market committee(APMC) Aurad Shahajani , only after declaration of results of four posts of Grampanchayat constituency of the said APMC.

2 It is not a matter of doubt that, the elections to all seats except four seats from Gampanchayat Constituency are held and the results have been declared in the news paper in accordance with section 14(4)(b) of the Act. The Collector is obliged to conduct elections for the posts of Vice Chairman and Chairman of the

APMC in accordance with section 22(1) of the APMC Act 1963. subsection (1) of Section 22 reads thus:-

" (1) On constitution of the Market Committee after a general election or otherwise, the Collector or, as the case may be, the District Deputy Registrar, or the officer not below the rank of Deputy Collector or Assistant Registrar of Co-operative Societies as the Collector or District Deputy Registrar may authorise in this behalf shall, within 30 days from the publication of the result of the general election under clause (a) or as the case may be, under clause (b) of sub section (4) of section 14, call a meeting for the election of the Chairman and Vice Chairman. "

3 Section 14(4)(a) mandates publication of the name of the elected Members of APMC, after the result of any by-election or subject to the provisions of sub-clause (b) all the results of the general election in the official gazette and also in a newspaper in the Marathi language, having circulation in the market area. It is further provided in section 14(4)(a) that, the publication of the name or names in a newspaper, as aforesaid shall, for the purpose of this section be deemed to be sufficient publication of the name or names of the elected member or members of the market committee. However, in the instant case, the result of the elections of the four seats of Village Panchayat Constituency of APMC have not yet been declared and therefore, section 4(4)(a)

will not have applicability. 4 Section 14(4)(b) prescribes that if, at a general election, the names of any persons to be elected under sub-section (1) or (1A) of section 13 cannot for any reason be published as aforesaid, and if with the available election results, the Committee will consist of not less than twelve members, then the Collector or as the case may be, the District Deputy Registrar, who has conducted the elections, shall publish the names of these members in the official gazette and also in a newspaper as aforesaid.

5 It is not a matter of doubt that, the Collector has declared the names of the elected members of the APMC in the newspaper. However, the names of the elected members shall also have to be published in the official gazette for the purpose of fulfillment of requirement of section 22(1) of the Act. Section 22(1) of the Act prescribes publication of the results of the general elections under clause (a) or as the case may be under clause (b) of sub-section (4) of section 14. Section 22(1) does not refer to mode of publication as stipulated under section 14(4)(C), where under, publication of names in the local newspaper may fulfill the requirement for the due Constitution of committee. Since there is no reference to publication in the manner prescribed under section 14(4) (a) and (b) in section 22(1), it is necessary for the

respondents to publish the names of the elected members in the official gazette and thereafter the Collector shall have to proceed to hold elections to the vacant posts of Chairman and Vice Chairman of the market committee within 30 days from the date of such publication. The Collector shall take steps in accordance with provisions of Section 22(1) as stated above and conduct the elections of Chairman and Vice Chairman.

6 With the directions as above, writ petition is disposed of.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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