

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

WRIT PETITION NO. 8993 OF 2015

Gokulsing Shivsing Salunke (Rajput)
age 52 years, occ. Agriculture
r/o At Post Purmepada
Taluka & District Dhule

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through tis Department of Cooperation,
Marketing And Textile
Mantralya, Mumbai 32.
2. The District Deputy Registrar
Cooperative Societies,
Dhule
3. Deputy Registrar,
Cooperative Societies,
Dhule
4. Agricultural Produce Market Committee
Dhule
Tq. & Dist. Dhule
through its Secretary.

.. RESPONDENTS

Mr. S.P. Shah, advocate for petitioner.

Mr. V.J. Dixit, Senior counsel instructed by Mrs. A.V. Gondhalekar, AGP for the State.

Mr. M.P. Tripathi, advocate for respondent no. 4.

WITH

WRIT PETITION NO. 8957 OF 2015

Suresh Guman Patil
age 61 years, occ. Agril.
r/o Village Navari
Tq. & Dist. Dhule

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through Principal Secretary,
Co-operation, Marketing and

Textile Department,
Mantralaya, Mumbai 32.

2. The District Deputy Registrar,
Co-operative Societies, Dhule
3. The Agricultural Produce Market
Committee, Dhule
through its Secretary.

.. RESPONDENTS

Mr. N.B. Khandare, advocate for petitioner.

Mr. V.J. Dixit, Senior counsel instructed by Mrs. A.V. Gondhalekar, AGP for the State.

Mr. M.P. Tripathi, advocate for respondent no. 3.

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CORAM : R.M. BORDE &

V. K. JADHAV, JJ.

DATE : 28TH SEPTEMBER, 2015.

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.

2. Rule. Rule made returnable forthwith. With the consent of the parties, petitions are taken up for final disposal at admission stage.

3. Petitioners are praying for issuance of writ of certiorari or any other direction or order in the nature of writ of certiorari directing quashment of order dated 31.08.2015 issued by the State Government thereby directing appointment of administrator to administer the affairs of Agriculture Produce Market Committee, Dhule. Petitioners are also praying for quashment of order dated 23.07.2015 issued by the State Government directing postponement of elections of APMC in the State.

4. It is not the matter of dispute that the term of the elected managing committee of APMC, Dhule, has come to an end on 03.08.2013. By order issued on 13.08.2013, the State Government directed postponement of elections for the electing managing committee of APMC, Dhule, for a period of six months i.e. upto 07.02.2014 in exercise of powers under section 14(3-A) of Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. Another order directing postponement of elections on second occasion came to be issued by the State Government on 04.03.2014 thereby directing postponement of elections of APMC, Dhule upto 09.10.2014. On third occasion, the State Government, by order dated 12.09.2014, granted exemption in exercise of powers under section 59 of the Act of 1963 in favour of APMC, Dhule, from operation of provisions of section 14(3) of the Act and, directed further postponement of election and extension of term of the managing committee upto 09.04.2015.

5. The State Government has issued certain general orders directing postponement of elections of APMCs in the State and, such of those orders were issued in exercise of powers under section 14(3-A) of the Act of 1963 on 08.02.2013 on the first occasion, granting extension for holding elections and continuing the elected body of APMCs for a period of six months. The second general order was issued by the State Government in exercise of powers under section 14(3-A) of the Act of 1963 on 11.10.2013 which was operative for a period of six months from the date of issuance of the order. On third occasion, the State Government issued general order directing postponement of elections in exercise of powers under section 14(3-A) of the

Act of 1963 on 10.04.2014 whereas fourth such order directing postponement of election in exercise of powers under section 14(3-A) of the Act came to be passed on 23.07.2015. So far as contention raised by petitioners to the effect that it was not open for the State government to discriminate in the matter of appointment of administrator and extend different treatment to APMC Dhule, does not deserve consideration for the reason that admittedly, the term of elected body of APMC Dhule expired on 03.08.2013 and, by virtue of specific orders issued by the State Government, atleast on three occasions, the elected body continued in the office for a period of more than two years. In view of provisions of section 14(3) of the Act, the elected body can be granted extension only on two occasions and for a period of six months at a time, so that the total period shall not extend one year in aggregate. However, in the instant matter, the elected body of APMC Dhule is in office for a period of more than two years beyond the term of expiry i.e. from 03.08.2013. The argument advanced in the matter based on so called discriminatory treatment does not deserve consideration and, the consequential prayer for grant of continuation stands rejected. The State Government could not have exercised powers conferred under section 14(3-A) of the Act on four occasions. Section 14(3-A) of the Act reads thus :

“Section 14(3-A) – Where due to scarcity, drought, flood, fire or any other natural calamity or rainy season or any election programme of the State legislature or the Parliament or a local authority, coinciding with the election programme of any Market Committee or such other special reason, in the opinion of the State Government, it is not in the public interest to hold elections to any Market Committee, the State Government may, notwithstanding anything contained in this Act or

in any rules, or bye-law made thereunder, or any other law for the time being in force, for the reasons to be recorded in writing, by general or special order, postpone the election of any Market Committee for a period not exceeding six months at a time which period may further be extended, so, however, that the total period shall not exceed one year in the aggregate.”

6. On bare reading of the provisions, it is clear that the State Government is invested with the powers to direct postponement of election for the reasons specified in the section for a period not exceeding six months at a time which period may further be extended, so, however, that the total period shall not exceed one year in the aggregate. In the instant matter, by virtue of granting extension on four occasions, the State Government has virtually extended the period and postponed its obligation of holding elections for more than two years. The order passed by the State Government on 23.07.2015 in exercise of powers conferred under section 14(3-A) of the Act of 1963, as such, shall have to be termed as illegal and beyond the competence of the State Government. Notification issued by the State Government on 23.07.2015 therefore stands quashed and set aside so far as APMC Dhule is concerned. Rule made absolute, to the extent specified above. In the facts and circumstances of the case, there shall be no order as to costs.

7. Pending civil application, if any, does not survive and stands disposed of.

(V. K. JADHAV)
JUDGE

dyb

(R. M. BORDE)
JUDGE