

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO. 15527 OF 2014

Ramchandra Balu Kumbhar .. Petitioner
vs.
State of Maharashtra & Ors. .. Respondents

Mr. Chetan Patil for Petitioner.
Mr. S. D. Rayrikar - AGP for Respondent Nos. 1 to 3.
Mr. Manoj Patil for Respondent Nos. 4 to 15.
Mr. Deepak Chaugule – Secretary of Respondent No. 4 present in person.

CORAM : M. S. SONAK, J.
DATE: 08 JANUARY 2015

P.C. :-

1] This petition is directed against the orders dated 9 August 2012 made by the Divisional Joint Registrar, Co-operative Societies, Kolhapur and the Minister (Cooperation) dated 20 March 2014, which have the effect of setting aside the order dated 28 May 2012 made by the Assistant Registrar of Co-operative Societies, superseding the managing committee of respondent no. 4 and appointing an Administrator to govern its affairs.

2] The learned counsel for the petitioner took me through the impugned orders and submitted with vehemence that the same are vitiated by non application of mind. The two Authorities, rather than

addressing themselves to the substance of the matter have interfered with the order superseding the managing committee on the ground that the show cause notice was issued on three grounds but the order superseding the managing committee makes reference to twelve grounds thereby occasioning failure of principles of natural justice. The learned counsel submits that the order dated 28 May 2012, if perused, would indicate that the same is not at all based upon twelve grounds. But rather the same only elaborates upon the three grounds referred to in the show cause notice.

3] The learned counsel for the petitioner further submits that the petitioner and several other members of the society, who are not in best of the terms with the members of the managing committee are being deprived water supply. This position was found to be correct even in the course of Panchnama which preceded the issue of show cause notice. For all these reasons, the learned counsel submits that orders be interfered with by this Court in exercise of its extra ordinary jurisdiction.

4] Mr. Manoj Patil, the learned counsel for respondent nos. 4 to 15 - the society and the members of the managing committee, at the outset submitted that the term of the managing committee has

expired in the month of November 2014 and very shortly fresh elections are due and for this reason, the learned counsel submitted that no useful purpose would be served in entertaining the present petition. Besides, the learned counsel after taking instructions from the Secretary of the society, who is present in the Court, submitted that the society / managing committee members have not and in any case shall not practice any discrimination in the matter of equitable distribution of water supply to its members or persons which fall within its command area. The learned counsel further submitted that the charges levelled in the show cause notice came to be duly answered. Besides a detailed enquiry was held into the matter and a report has been made under Section 89A of the Maharashtra Co-operative Societies Act, 1960 which would also indicate that the charges levelled against the managing committee members of the society, lacked any basis. For all these reasons, the learned counsels submitted that this Court ought not to exercise its extra ordinary jurisdiction and interfere the concurrent findings recorded by the Divisional Joint Registrar and the Minister (Co-operation).

5] Having heard the learned counsels and perused the record, in my judgment, no useful purpose would be served by entertaining

this writ petition at the present stage. This is because the term of the managing committee members has already expired in the month of November 2014 and it is expected that fresh elections will be held within a period of two to three months. Further, it would be appropriate if the statement made by the learned counsel for respondent nos. 4 to 15, on basis of instructions from the Secretary is recorded, so that the managing committee members practice no discrimination in the matter of equitable distribution of water supply. This is not to mean that they have in the past practiced any such discrimination. However, lest, the apprehensions of the petitioner persist, it is only appropriate that such statement is not only recorded but also accepted by this Court. The apprehension expressed by the petitioner is that because he has made complaints pursuant to which the managing committee was superseded, there is a possibility that he might be victimized. The statement which has been made and now recorded should allay the apprehensions of the petitioner.

6] Although the impugned orders are not being interfered with, it must be noted that there is substance in the submissions made by the learned counsel for the petitioner that the Divisional Joint Registrar, in making the order dated 9 August 2012 has dealt with

the issue in a very casual and perfunctory manner. The Divisional Joint Registrar ought to have satisfied himself that the final order of super-session was indeed on grounds other than or in excess of those set out in the show cause notice. Such an exercise should not have been avoided merely going by the paragraph numbers in the show cause notice and the final order dated 28 May 2012. Having stated this, for reasons indicated above, this is not a fit case where this Court ought to exercise its extra ordinary jurisdiction under Article 227 of the Constitution of India.

7] After recording and accepting the aforesaid statement made by and on behalf of respondent nos. 4 to 15, the present petition is disposed of. The impugned orders are not interfered with. There shall be no order as to costs.

(M. S. SONAK, J.)