

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8928 OF 2014

Mr. Bashir Abdul Karim Shaikh and another .. Petitioners

Versus

State of Maharashtra and others .. Respondents

Shri. T. D. Deshmukh, for the Petitioners.

**Shri. K. S. Bapat i/by Mrs. Suman Y. Lengare, for the Respondent
Nos.6 to 8.**

Mr. A. D. Kango, AGP for Respondent Nos.1, 3 & 4.

CORAM : R.M. SAVANT, J.

DATE : 23rd APRIL, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the orders dated 12.08.2014 and 19.08.2014 passed by the State Government i.e. the Hon'ble Minister for Co-operation Textiles and Marketing, Government of Maharashtra. By the first order i.e. the order dated 12.08.2014 the Appeal filed by the Respondent No.7 and 8 herein came to be allowed, the audit report dated 15.09.2012 came to be set aside and re-audit of the Respondent No.6 society for the concerned period came to be ordered by the State Government. By the second order dated 19.08.2014 passed in Appeal Nos.388 and 389 of 2012, the inquiry under Section 88 of the Maharashtra Co-operative Societies Act came to be stayed, and an

interim committee of administrators came to be appointed on the Respondent No.6 society. The tenure of the managing committee of the Respondent No.6 society has come to an end in January, 2014. However, as indicated above by the order dated 19.08.2014 an interim committee has been appointed. It seems that prior thereto an order under Section 78 of the said Act was passed superseding the managing committee. Against the said order the Respondent Nos.7 and 8 have filed an Appeal which is pending. However, in so far as the grant of stay is concerned, since the Appellate Authority was not available the Respondent Nos.7 and 8 had moved this Court by way of Writ Petition No.12045 of 2012. The said Writ Petition was disposed of by order dated 08.05.2013 by allowing the managing committee to function subject to the restraints which have been mentioned in the said order dated 08.05.2013. The instant order dated 19.08.2014 appointing the interim committee is therefore an order passed post the said order dated 08.05.2013.

2. The above Petition was argued at some length. It is during the course of hearing of the above Petition, the Leaned Counsel appearing for the Respondent Nos.6, 7 and 8, Shri. K. S. Bapat submitted that since the process to hold the elections for Respondent No.6 has already been initiated, the Respondent Nos.7 and 8 without prejudice to the rights and contentions have no objection if an administrator is appointed to take

charge of the society during the course of the elections being held for the Respondent No.6 society. Upon this, the Learned Counsel appearing for the Petitioners on instructions states that he has no objection to the said course of action being followed. The only grievance of the Learned Counsel for the Petitioners is that some directions be issued, so that the re-audit work is carried out expeditiously, as it is on account of the direction for re-audit that the proceedings under Section 88 have not progressed. In my view in the light of the consensus between the Learned Counsel for the parties, the above Petition can be disposed of in the following terms :-

I) The Regional Deputy Director, Textiles, Solapur to appoint an appropriate officer as the Administrator of the Respondent No.6 society.

II) The Administrator will look after the day to day affairs of the society till charge is handed over to the newly elected body after the elections.

III) The Administrator not to take any major policy decisions till the newly elected body takes charge. This would include incurring any major expenditure.

IV) The consequence of the Clauses 1 and 2 above would be that the order dated 19.08.2014 appointing the interim committee is turned ineffective.

V) The managing committee which is in office and which is represented by Shri. K. S. Bapat would hand over charge to the administrator as and when he comes to assume charge. The same to be done not later than four weeks from date.

VI) Since the proceedings under Section 88 are stayed on account of the re-audit which has been ordered by the order dated 12.08.2014 and in view of the fact that the Learned Counsel for the petitioners states that the Petitioners would give up challenge to the order ordering re-audit, but would be satisfied if the re-audit is expedited. The concerned Auditor who is doing the re-audit is directed to complete the same expeditiously.

VII) The designated authority under the Maharashtra Co-operative Societies Act is directed to conduct the elections to the Respondent No.6 expeditiously, if there is no impediment for doing so by announcing the first phase of the election programme.

VIII) This arrangement has been made without prejudice to the rights and contentions of the parties, in so far as the re-audit carried out under Section 81 of the said Act or the

further action that may be taken under Section 88.

2. With the aforesaid directions, the Writ Petition is disposed of.

[R.M. SAVANT, J]