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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 1431 OF 2015

Tatyasaheb Ramgonda Patil and ors. Petitioners
vs
State of Maharashtra, through Secretary,
Dept of Cooperation and ors. Respondents

Mr. Ravi Kadam, Senior Advocate with Mr. S.S. Patwardhan for the
Petitioners.

Mr. Sunil Manohar, Advocate General with Mr. A. B. Vagyani,
Government Pleader and Mr. C.P. Yadav, AGP for Respondent Nos. 1 to
3.

Mr. A.A. Kumbhakoni, Senior Advocate with Mr. A.M. Kulkarni for
Respondent No.4.

Mr. A.Y. Sakhare, Senior Advocate with Mr. Joel Carlos for Respondent
No.5.

ALONG WITH
WRIT PETITION No. 1407 of 2015

Kashinath Vhannappa Charati (Decd) through
Lrs and ors. ... Petitioners

vs.
Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1408 of 2015

Sadshivrao Dadoba Mandlik ... Petitioner

vs.
Authorised Officer, Kolhapur District Central

Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1421 of 2015

Arun Dattatraya Narake ... Petitioner

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1422 of 2015

Vishwas Bajirao Patil ... Petitioner

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1423 of 2015

Pandurang Nivrutti Patil alias P. N. Patil
(Sadolikar) ... Petitioners

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1424 of 2015

Mahadevrao Ramchandra Mahad ... Petitioner

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1425 of 2015

Chandrakant Ganpatrao Savekar (since decd)
through Lrs ... Petitioners

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1426 of 2015

Anandrao Dnyandev Patil (Chuyekar)
(since decd) Lrs Shashikant A. Patil ... Petitioners

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1427 of 2015

Sou. Shakuntala Babaso Patil ... Petitioner

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1428 of 2015

Narsing Gurunath Patil ... Petitioner

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors. Respondents

ALONG WITH
WRIT PETITION No. 1429 of 2015

Baburao Shivram Kore (since decd)

thorough Lrs and anr

... Petitioners

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors.

.... Respondents

ALONG WITH
WRIT PETITION No. 1432 of 2015

Amar Yashwant Patil

... Petitioner

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors.

.... Respondents

ALONG WITH
WRIT PETITION No. 1433 of 2015

Satej Alias Banti Dnyandev Patil

... Petitioner

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors.

.... Respondents

ALONG WITH
WRIT PETITION No. 1436 of 2015

Sandeep Arun Narake

... Petitioner

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors.

.... Respondents

Mr. Y. S. Jahagirdar, Senior Advocate with Mr. Amit Borkar for the
Petitioners.

Mr. Sunil Manohar, Advocate General with Mr. A.B. Vagyani,
Government Pleader with Mr. C.P. Yadav, AGP for Respondent No.1 in
all above matters.

Mr. A.A. Kumbhakoni, Senior Advocate with Mr. A.M. Kulkarni for
Respondent No.2 in all above matters.

Mr. A.Y. Sakhare, Senior Advocate with Mr. Joel Carlos for Respondent No.3 in all above matters.

AND ALONG WITH
WRIT PETITION No. 1430 of 2015

Baburao Sattyappa Hajare and ors.

... Petitioners

vs.

Authorised Officer, Kolhapur District Central
Co-op. Bank Ltd. And ors.

.... Respondents

Mr. A.M. Savagave for the Petitioners.

Mr. Sunil Manohar, Advocate General with Mr. A.B. Vagyani,
Government Pleader with Mr. C.P. Yadav, AGP for Respondent Nos. 1
to 3.

Mr. A.A. Kumbhakoni, Senior Advocate with Mr. A.M. Kulkarni for the
Respondent No.2.

Mr. A. Y. Sakhare, Senior Advocate with Mr. Joel Carlos for
Respondent No.5.

CORAM: ANOOP V. MOHTA, J.

DATE : February 12, 2015

P.C.:

Heard Mr. Ravi Kadam, learned senior counsel appearing
for the Petitioner in Writ Petition No. 1431/2015 as well as Mr.
Jahagirdar, learned senior counsel appearing for the Petitioners in
other Writ Petitions and Mr. Savagave, the learned counsel appearing
for the Petitioner in Writ Petition No. 1430/2015.

2 The learned Advocate General on behalf of State of
Maharashtra and the learned senior counsel appearing for Respondent

No.5 have raised a preliminary objection to entertain the present Writ Petition so filed against orders dated 23.01.2015 and 05.02.2015 passed under Section 88 of the Maharashtra Cooperative societies Act, 1960 (for short, MCS Act) as the remedy of filing statutory Appeal against these orders under Section 152 of MCS Act is available.

3 Mr. Jahagirdar, learned senior counsel appearing for the Petitioners in other Writ Petitions states that they have already filed 19 appeals on 5.2.2015 along with the applications for stay. However, the concerned Appellate Authority adjourned the matters for hearing on 23.02.2015 at 3 p.m.

4 Mr. Ravi Kadam, learned senior counsel appearing for the Petitioners in Writ Petition No. 1431/2015, pointed out the averments made in the Petition specifically in paragraphs 19, 20, 21 and 22, referring to apprehension of not getting any protective order, principally on the ground of “clear bias” and as the mind is already set against the petitioners.

5 The averments even of a similar nature are not made in the Writ Petitions, where the other Petitioners have filed 19 appeals

and the same are pending. Respondent No.5 (the Appellate Authority) is not even party to these Writ Petitions. The statement is also made that in those stay Applications, pending the Appeals, and/or even in the Appeals, there are no such averments made referring to the alleged bias and of political influence.

6 The statute provides for an Appeal. The Appellate Authority needs to act in accordance with law by following the due procedure. It is needless to mention that the Appellate Authority to take into consideration also the basic principle of natural justice and give equal and fair opportunity to all the concerned parties. Therefore, merely because the averments are made based upon some newspaper report that itself, in my view, at this stage, unless an opportunity is given to all the parties, cannot be the reason to overlook the statutory provisions specifically when the order/judgment so passed, arising out of the proceedings under Section 88 of the MCS Act initiated from the earlier inquiry and procedure so contemplated right from Section 83 onwards of the MCS Act. In the present case, there is no issue that the inquiry so ordered commenced in the year 2009 and proceeded & concluded on the date of order in question.

7 I am not deciding the points as well as the factual rival submissions revolving around the merit and on specific averments of bias so made in writ petition No. 1431/2015. All points are kept open on all counts for the appellate authority to decide the same.

8 The learned Advocate General and the learned senior counsel appearing for Respondent No.5, on instructions of Respondent No.5 in Writ Petition No.1431/2015 make statement that they are willing to prepone the date of hearing of Appeals, as well as, of the applications for stay in view of the urgency so expressed by the learned senior counsel appearing for the Petitioners referring to the issue of attachment as well as the disqualification as contemplated under the provisions of the MCS Act.

9 Mr. Kumbhakoni, learned senior counsel appearing for the Respondent-Bank, on instructions, makes statement that the provisional voters list of the Bank in question is not yet prepared and finalised, which is essential for any election. Another statement is that further more steps are required to implement and/or to execute the impugned orders. This, in my view, at this stage, is sufficient to record

the statements, instead of passing any interim protective order so sought in these writ petitions by the Petitioners. Let the concerned Authority deal with the Appeals, as well as, all Applications for stay in accordance with law.

10 Therefore, all the Writ Petitions are disposed of as an alternate statutory remedy of Appeal under the provisions of MCS Act is available. The Appellate Authority to deal with the Appeals as well as the Applications for stay as early as possible. The stay Applications at least be heard on 16.02.2015 at 3 p.m. All the concerned parties to appear before the Appellate Authority on the date so fixed without fresh notice. Liberty is granted to the parties to file the additional affidavits and/or materials in support of their rival contentions. The Appellate Authority to deal with the same in accordance with law.

11 All the writ petitions are accordingly disposed of in the above terms. All points are kept open for all the parties. There shall be no order as to costs.

(ANOOP V. MOHTA, J.)