

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11241 OF 2015

Sandesh Dandawate & Ors.	..	Petitioners
VS.		
State of Maharashtra & Ors.	..	Respondents

Mr. A. A. Kumbhakoni – Senior Advocate i/b. Mr. Umesh Mankapure for Petitioners.

Mr. A. B. Vagyani – Government Pleader with Mr. Vishal Thadani – AGP for Respondent Nos. 1 and 2.

Mr. Ranvir Shekhawat for Respondent No. 3.

WITH
WRIT PETITION NO. 11244 OF 2015

Dnyaneshwar Kondiba Pawar & Ors.	..	Petitioners
VS.		
State of Maharashtra & Ors.	..	Respondents

Mr. P. K. Dhakephalkar - Senior Advocate i/b. Mr. J. G. Reddy for Petitioners.

Mr. A. B. Vagyani – Government Pleader and Mr. Vishal Thadani – AGP for Respondent Nos. 1 and 2.

Mr. Ranvir Shekhawat for Respondent No. 3.

WITH
WRIT PETITION (STAMP) NO. 31200 OF 2015

R. M. Bangar & Ors.	..	Petitioners
VS.		
State of Maharashtra & Ors.	..	Respondents

Mr. Sarang Aradhye for Petitioners.

Mr. A. B. Vagyani – Government Pleader with Mr. Vishal Thadani – AGP for Respondent Nos. 1 and 2.

Mr. Ranvir Shekhawat for Respondent No. 3.

CORAM : M. S. SONAK, J.
DATE: 17 NOVEMBER 2015

P.C. :-

- 1] **Not on board. Upon production, taken on board.**
- 2] Writ Petition (Stamp) No. 31200 of 2015 is not on production board but is taken on board with the consent of the learned counsel appearing for the parties.
- 3] The challenge in these three petitions is to the common order dated 2 November 2015, made by the Joint Registrar Cooperative Societies (Dairy) suspending the Board of Directors of the Respondent No.3 under Section 78 (1) of the Maharashtra Cooperative Societies Act, 1960. As against the impugned order, the appeal would lie to the State Government under Section 152 of the said Act.
- 4] The learned counsel appearing for the Petitioners however submit that the Petitioners have reasonable apprehensions of bias as against the Minister who holds portfolio of Dairy Development. The learned counsel for the Petitioners submit that they are not prepared to waive the objections based upon the doctrine of bias.

5] On the other hand, Mr. Vagyani, the learned GP, has submitted that since the Statute has provided for alternate and efficacious remedy against the impugned order, the Petitioners should be relegated to avail such alternate remedy rather than directly approach this Court. Mr. Vagyani submitted that there is no substance in the allegations of bias and in any case such contentions are required to be raised before the Appellate Authority in the first instance.

6] Since the said Act has provided for an alternate remedy by way of an appeal, the objection raised by Mr. Vagyani is upheld and these petitions are not entertained. All contentions, including issue of bias are kept open.

7] The learned counsel for the Petitioners state that the Petitioners, without prejudice, will institute appeals within a period of one week from today. Further, the learned counsel for the Petitioners point out that the Division Bench of this Court in writ petition nos. 4050 of 2015 and 4054 of 2015 decided on 23 April 2015 granted limited protection to the Petitioners. The protection was that in case any adverse order is made against the Petitioners under Section 78(1) of the said Act, the same will not be given effect for a period of 15 days from the date of service of the said order.

The learned counsel for the Petitioners contend that such interim relief be continued during the pendency of appeal before the State Government.

8] Mr. Vagyani, the learned GP, on basis of instructions, has stated that in case the appeals are preferred within one week from today, the same can be disposed of within a period of three weeks thereafter. If this is the position, then it would be appropriate if the implementation of the impugned order is stayed during the pendency of the appeals and for a period of one week thereafter from the date of service of order on the Petitioners, in case the decision in the appeals is adverse to the Petitioners. It is directed accordingly.

9] Mr. Vagyani has opposed the continuance of the interim relief on the ground that no *prima facie* case has been made out by the Petitioners. However, considering the fact that the interim protection was granted by the Division Bench of this Court and further the circumstance that the appeals are to be disposed of within a period of hardly three weeks, it would be appropriate if there is interim relief during the pendency of the appeal. The Petitioners, during the operation of the interim relief shall not take any major policy decisions or major financial decisions. This shall however not

prevent the Petitioners from incurring day to day or routine expenses. It is directed accordingly.

10] It is made clear that this Court has not examined merits of the matters and therefore all contentions of all parties are left open to be decided by the Appellate Authority in accordance with law and on its own merits.

11] Rule is accordingly disposed of in the aforesaid terms. There shall be no order as to costs.

12] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka