

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.558/2014

(The Bhandara Urban Cooperative Bank Ltd. and another vs. The State of Maharashtra and others)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

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Mr.M.V.Samarth, Adv.for petitioners
Mrs.Bharati Dangre, Government Pleader for respondents

CORAM : SMT. VASANTI A. NAIK &
A.M. BADAR, JJ.
DATED : 21st April, 2015.

By this petition, the petitioners challenge the provisions of Sections 30,32 and 33 of the Maharashtra Cooperative Societies (Amendment) Act, 2013 as being *ultra vires* the provisions of the Constitution of India and against the judgment dated 22.4.2013 passed by the High Court of Gujarat.

It is informed to this Court by the learned Government Pleader that the 97th amendment to the Constitution i.e. the amendment to the provisions of Article 243-ZJ was challenged before the Gujarat High Court and the said amendment has been struck down by the said High Court, being unconstitutional. It is stated that a similar challenge to the 97th amendment to the Constitution has been raised at the Principal Seat and this Court has stayed the effect and operation of the first proviso to Clause(1) of Article 243-ZJ of the Constitution. It is stated that the amendment to the

provisions of Section 30,32 and 33 of the Maharashtra Cooperative Societies (Amendment) Act is based on the amendment to the provisions of Article 243-ZJ of the Constitution. It is stated that in view of the stay granted by the Division Bench at the Principal Seat, the order passed by the Divisional Joint Registrar, Nagpur, dated 24.1.2014, would not be acted upon and instead, the Divisional Joint Registrar Cooperative Societies, Nagpur will pass a fresh order within a reasonable time. It is further stated that if the challenge to the 97th amendment i.e. the provisions of Article 243-ZJ succeeds, the challenge to the provisions of Section 30, 32 and 33 of the Maharashtra Cooperative Societies (Amendment) Act, 2013 would also succeed. It is stated that since the Deputy Divisional Joint Registrar is ready to reconsider the matter in the light of the stay to the effect and operation of the first proviso to Clause (1) of Article 243-ZJ of the Constitution, the Writ Petition could be disposed of.

Since the respondents would not act upon the order of the Divisional Joint Registrar, Nagpur, dated 24.1.2014 and a fresh order would be issued by the Divisional Joint Registrar in view of the stay granted by the Division bench at the Principal Seat to the proviso to Clause (1) of Article 243-ZJ of the Constitution, nothing would survive in this petition. The challenge to the 97th amendment to the constitution would be considered in several petitions pending at the Principal Seat.

By accepting the statements made by the learned Government Pleader, we dispose of the Writ Petition, with a direction to the Divisional Joint Registrar, Nagpur to

reconsider the issue within a period of one month. The points raised in the petition are kept open.

JUDGE

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