

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

Writ Petition No.4424 of 2015

(Prashant Balwantrao Sabane and another v. District Deputy Registrar,
Co-operative Society, Amravati, and District Election Officer, Amravati, and
others)

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

Court's or Judge's orders

Dr. Anjan De, Advocate for Petitioners.

Shri N.R. Patil, Assistant Government Pleader for Respondents.

**Coram : Smt. Vasanti A. Naik &
A.M. Badar, JJ.**

Date : 6th August, 2015

By this petition, the petitioners challenge the order of the respondent No.1-District Deputy Registrar, Co-operative Societies, Amravati, dated 23-7-2015, staying the election programme that was declared for the elections to the Dhamangaon Railway Agriculture Produce Market Committee.

The petitioners are the members of the Dhamangaon Railway Agriculture Produce Market Committee. The final voters' list was prepared by the respondent No.1-District Deputy Registrar, Co-operative Societies, Amravati, and the names of the petitioners are included in the final voters' list. The petitioner No.1 represents the Seva Sahakari Sanstha, while the petitioner No.2 represents the Hamals and Weighmen Constituency. It is the case of the petitioners that the election programme was declared by the respondent No.1 on

23-7-2015 and the same was published in the local newspapers on 24-7-2015. It is stated that after the election programme was finalized and sent for publication, the State of Maharashtra issued an order dated 23-7-2015 that the elections of the Market Committees for which the election programmes are not declared and for which the elections are not directed to be held by the orders of the High Court and the Supreme Court, would be postponed by a period of six months, as the farmers are busy in sowing operations. It is submitted that even before the order dated 23-7-2015 was issued by the State Government, the elections to the Dhamangaon Railway Agriculture Produce Market Committee were declared. It is submitted that this Court had, by an order dated 3-12-2014, directed the State Government to complete the elections to the Agriculture Produce Market Committees, latest within a period of six months. It is submitted that once the election programme was declared, the respondent No.1-District Deputy Registrar did not have the authority to stay the elections to the Dhamangaon Railway Agriculture Produce Market Committee. It is stated that though the impugned order staying the elections was passed after 24-7-2015, as it refers to the publication of the election programme on 24-7-2015, mischievously, the respondent No.1 has made a show that the order was passed on 23-7-2015.

Shri Patil, the learned Assistant Government Pleader appearing on behalf of the respondents, submitted on instructions that the election programme was sought to be declared at 6.00 p.m. on 23-7-2015 and the order of the State Government, dated 23-7-2015, postponing the elections by six months was received by the District Deputy Registrar at 7.30 p.m. by e-mail. It is admitted that by

then, the election programme for the elections to the Dhamangaon Railway Agriculture Produce Market Committee was sent to the newspapers for publication and the newspapers had also printed the same. The learned Assistant Government Pleader was, however, not able to explain as to how the fact in respect of publication of the election programme in the newspapers on 24-7-2015 finds place in paragraph 2 of the impugned order dated 23-7-2015. The learned Assistant Government Pleader states that in view of Rule 43 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967, the last date for filing the nominations would be fifteen days from the date of declaration of the election programme. It is submitted that since the election programme appears to have have been stayed by the impugned order of the District Deputy Registrar, dated 23-7-2015, the members desirous of contesting the elections could not have filed the nomination forms, with the result that the period of fifteen days would not be available for the prospective candidates for filing the nominations. It is stated that, in the circumstances stated hereinabove, this Court may direct the respondent No.1 to declare a fresh or modified election programme commencing from 7-8-2015.

On hearing the learned counsel for the parties and on a perusal of the impugned order of the District Deputy Registrar, dated 23-7-2015, it appears that the impugned order was passed after the election programme was published in the newspapers on 24-7-2015, though the date of the order is wrongly shown as 23-7-2015. It is apparent from a reading of paragraph 2 of the impugned order that the election programme was prepared and sent to the newspapers for its publication on 23-7-2015 and the

programme was also published in the newspapers on 24-7-2015. If such a statement finds place in the impugned order dated 23-7-2015, it is apparent that the impugned order was made after the election programme was published in the newspapers on 24-7-2015, though the order is shown to be pre-dated. It appears from the impugned order that the respondent No.1 could not have cancelled or withdrawn the direction to publish the programme, as the programme was already printed by the newspapers and the same was required to be published. Also, it is admitted on behalf of the respondents that the elections were declared at 6.00 p.m. on 23-7-2015 and the order of the State Government, postponing the elections was received by the respondent No.1 by e-mail at 7.30 p.m. on 23-7-2015. It appears that by the said time, the election programme was already printed by the newspapers. In the aforesaid background, it is clear that the order of the State Government, dated 23-7-2015, postponing the elections, could not have been acted upon by the respondent No.1 in respect of the elections to the Dhamangaon Railway Agriculture Produce Market Committee, as the elections to the said Market Committee were already declared by the respondent No.1 by then. The impugned order of the respondent No.1, dated 23-7-2015, is, therefore, liable to be set aside in the circumstances of the case.

Though the impugned order of the respondent No.1 is liable to be set aside, as rightly submitted on behalf of the respondents, a fresh or modified election programme is liable to be declared and published in view of the provisions of Rule 43(1)(i) of the Rules of 1967. The members should get at least fifteen days' time from the date of declaration of the election programme to file the nominations or else the said programme would be contrary to the provisions of Rule 43 of

the Rules of 1967. Hence, we accept the statement made on behalf of the respondent No.1 that a fresh or modified election programme would be declared on 7-8-2015, granting a minimum period of fifteen days for filing of the nominations.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order of the respondent No.1-District Deputy Registrar, Co-operative Societies, Amravati, is quashed and set aside. The respondent No.1 is directed to publish a fresh or modified election programme in accordance with law, on 7-8-2015.

Order accordingly. No costs.

Judge

Judge.

Lanjewar