

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

WRIT PETITION NO. 4092/2013.

Gajanan Ramkisan Pacharne **VERSUS** The Hon'ble State Minister, & others.

with

WRIT PETITION NO. 5813/2014.

Shamrao Nimbaji Ugale **VERSUS** The State of Maharashtra, & others.

with

WRIT PETITION NO. 5516/2013.

Shamrao Nimbaji Ugale **VERSUS** The State of Maharashtra, & others.

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

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI
& A.P. BHANGALE, JJ.

DATED : JANUARY 19, 2015.

Heard Shri A.S. Kilor, learned Counsel for
petitioner (Gajanan) in Writ Petition No. 4092/2013
and Shri S.D. Chande, learned Counsel for the
petitioner (Shamrao) in Writ Petition Nos. 5813/2014
and 5516/2013. Shri A.S. Fulzele and Shri N. Rode,
learned A.G.P. for respondent – State and Shri S.S.

Dhengale, learned Counsel for respondent A.P.M.C and Shri R.S. Parsodkar, learned Counsel for respondent no.5 (Writ Petition No. 4092/2013).

Respective parties agree that the tenure of elected body of A.P.M.C. has expired about two years back and present Vice-Chairman is discharging duties as Chairman. They also agree that present adjudication shall not alter this existing position. Hence, we have taken up the matters for final disposal with consent of all.

All these petitions pertain to same A.P.M.C. and parties are same. No confidence motion passed against petitioner Gajanan Pacharne, forms subject matter of Writ Petition No. 4092/2013. That no confidence motion was carried on 23.07.2013. Grievance of Gajanan is, petitioner Shamrao in other two writ petitions, obtained an exparte stay and on that basis he participated in the meeting. If his vote is ignored, the motion needs to be rejected.

Petitioner Shamrao in Writ Petition No. 5813/2014, was removed under Section 15 read with

Section 13[1][a][i] of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, on the ground that he has completed his tenure as Managing Committee member of a Credit Cooperative Society in the year 2009 and was not elected again to that post, as such after 2009, he was not an elected member of the Managing Committee of the said Credit Cooperative Society at Dhodak, and hence, he could not continue after 2009. This disqualification or removal was maintained by the respondent no.3 District Deputy Registrar, initially and appeal filed by Shamrao against it with the respondent no.1 was also dismissed.

This Court in Writ Petition No.5516/2013 filed by Shamrao challenging his removal under Section 15 read with Section 13[1], granted status-quo on 14.10.2003. He therefore participate in no confidence meeting and that no confidence motion passed against Gajanan forms subject matter of Writ Petition No. 4092/2013. Earlier order of removal passed against Shamrao on 24.01.2013 under Section

45 of the A.P.M.C.Act forms subject matter of Writ Petition No. 5516/2013. Subsequent orders passed by the respondent no.3 and respondent no.1 removing Shamrao under Section 15 read with Section 13[1][a][i], form subject matter of challenge in Writ Petition No.5813/2014.

The facts show that appeal filed by Shamrao, in which he got ex-parte stay, was dismissed by the Hon'ble Minister on 04.10.2013. Thus, order dated 23.07.2013 granting interim relief in favour of Shamrao merged into that order. On the basis of the said interim order, Shamrao voted against the petitioner Gajanan on 24.07.2013 in no confidence motion. It is not in dispute that had Shamrao been not permitted to vote, the motion could not have been carried.

The facts above show that the said interim order ultimately was not maintained and appeal was dismissed. As such, no confidence motion passed against the petitioner Gajanan, cannot survive. The said no confidence motion passed on 24.07.2013 is,

therefore, quashed and set aside.

In Writ Petition No. 5813/2014, Shamrao has questioned his removal under Section 15 read with Section 13[1][a][i]. Shri Chande, learned counsel has submitted that Section 13[1][a][i] does not require Shamrao to be a member of the Managing Committee and the members of the Managing Committee can elect any member of a Cooperative Society as their representative. Petitioner - Shamrao was accordingly elected and, therefore, he should have been permitted to continue in that capacity till the tenure of Board of A.P.M.C. continues.

Shri Kilor, learned counsel submits that Shamrao needed to be elected as a managing committee member to claim continuation. Shamrao occupied that status till the year 2009 and thereafter, did not contest the election for the post of Managing Committee Member of Credit Cooperative Society, Dhodak.

Proviso to Section 15[1] contemplates a member of A.P.M.C., who holds that office being

representative belonging to any category of members referred to in Sub-section [1] or [1][a] of Section 13. Such representative holds office as Director of A.P.M.C. so long as he continues to be such representative. Section 13[1][a][i] requires a person to be elected by members of the Managing committees of Agricultural Credit Cooperative Societies and Multipurpose Cooperative Societies. Shamrao was accordingly elected. This election therefore, has got nothing to do with his status or position as member of the managing committee of Dhodak Credit Cooperative Society. The said provision does not mandate that a person to be elected must also be a Committee Member. Hence, even though the tenure of managing committee members of Dhodak Credit Cooperative Society may have expired in the year 2009, representative capacity of Shamrao is not wiped out and he therefore, continues to represent said society even thereafter. Proviso to Section 15[1], therefore does not have any application.

The impugned orders in Writ Petition No.

5813/2014 therefore, do not survive and are quashed and set aside.

Writ Petition No. 5516/2013 challenges prior removal of Shamrao under orders dated 14.01.2013 by the respondent no.3 District Deputy Registrar. During hearing it was not in dispute that the tenure of Risod A.P.M.C. was already over in 2013 and thereafter it has been extended. The elected body is still continuing in office and its tenure is to expire on 28.01.2015. Learned A.G.P. submit that as per his instructions, the tenure is to expire on 28.02.2015.

It is not necessary for us to go into said disputed question, as respective counsel upon instructions states that the order of status quo operating today can be continued till the new elections of A.P.M.C. is conducted. In view of this clear understanding and as tenure is over, we are not inclined to pass any order in Writ Petition No. 5516/2013

With directions to the Authorities to maintain status quo as on today, till further elections

Order

1901wp4092.13

8

for new members of A.P.M.C. Risod are held, we
dispose of all the Writ Petitions. No cost.

Rgd

JUDGE

JUDGE