

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7513 OF 2016

1. Ganesh Rambhau Ghatge,
Age 38 years, Occu: Sabhapati,
Agricultural Produce Market
Committee, Parbhani, R/o
Salapur Tq. & Dist. Parbhani
2. Dilip s/o Sundarrao Aavchar
Age 40 years, occu: Up
Sabhapati, Agricultural
Produce Market Committee,
Parbhani, R/o Salapur Tq. &
District Parbhani
3. Swanrajsinh Shivpalsinh
Parihar, Age 42 years, Occu:
Director of Agricultural
Produce Market Committee,
Parbhani, Tal.& Dist.Parbhani
4. Sopanrao s/o Baburao Aavchar,
Age 39 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani, Taluka &
District Parbhani
5. Dattarao s/o Tukaramji Renge
Age 37 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani, Taluka &
District Parbhani
6. Tanaji s/o Manikrao Bhosale,
Age 41 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani, Taluka &
District Parbhani
7. Sanjay s/o Subhashrao
Sakharwad, Age 44 years, Occu:
Director of Agricultural

Produce Market Committee,
Parbhani, Taluka & District
Parbhani

8. Sau. Shobhabai s/o Munjali
Javanjal,
Age 38 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani, Taluka &
District Parbhani
9. Sau. Pratibhatai Jagannath
Game, Age 40 years, Occu:
Director of Agricultural
Produce Market Committee,
Parbhani, Taluka & District
Parbhani
10. Sandeep s/o Jaiprakashji
Bhandari, Age 30 years, Occu:
Director of Agricultural
Produce Market Committee,
Parbhani, Tal.& Dist.Parbhani
11. Subhash s/o Gopirajaji Kale,
Age 42 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani, Taluka &
District Parbhani
12. Shaikh Maheboob Shaikh Fakir ... **Petitioners**
Age 45 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani, Taluka &
District Parbhani

VERSUS

1. The State of Maharashtra,
Through its Secretary
cooperative, Textile and Panan
Department, Mantralaya,
Mumbai 400 032
2. The district Deputy Registrar,
Cooperative Societies,
Parbhani, Tq. & Dist. Parbhani

3. The Assistant Registrar,
cooperative Societies,
Parbhani, Tq. & Dist. Parbhani
4. Agricultural Produce Market
Committee, Parbhani,
Tq. & Dist. Parbhani
5. The Panan Sanchalak,
Panan Mandal, Maharashtra
State, Pune.
6. Vijay s/o Raosaheb Jamkar,
Age 43 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani.
7. Anand s/o Sheshraoji Bharose
Age 45 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani.
8. Bhagwanrao s/o Narayanrao
Waghmare, Age 44 years, Occu:
Director of Agricultural
Produce Market Committee,
Parbhani.
9. Rameshwar Bansidharrao Renge,
Age 43 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani.
10. Samsher Sureshrao Warpudkar,
Age 42 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani.
11. Bhagwan s/o Ganeshrao Dhas, ... **Respondents**
Age 40 years, Occu: Director
of Agricultural Produce Market
Committee, Parbhani.

Shri S. S. Thombre, Advocate for the petitioners,

Shri P. S. Patil, AGP for the Respondents-State,
Shri V. A. Bagal-Patil, Advocate for Respondent No.4,
Shri N. R. Pawade, Advocate for Respondents 6, 8,10&11.

**CORAM : R. M. BORDE &
K. L. WADANE, JJ.**

DATE : 9th August, 2016

JUDGMENT:

1. Heard the learned counsel for the parties.
2. Rule. Rule made returnable forthwith and the petition is taken up for final disposal by the consent of learned counsel for the respective parties.
3. The petitioners are objecting to the order passed by Respondent No.2- The District Deputy Registrar, Cooperative Societies, Parbhani dated 19.07.2016 appointing Administrator over the Agricultural Produce Market Committee, Parbhani, Taluka & District Parbhani. Elections to the APMC, Parbhani were held in the year 2011 and the term of the elected body comes to an end on 18.07.216. It is the contention of the petitioners that before expiry of the term of the elected body, the APMC, Parbhani submitted a list of members/voters together with the amount required for holding elections to the District Deputy Registrar, Cooperative Societies, Parbhani on 14.06.2016. It is

contention of the petitioners that though the communication was received on 29.03.2016 from the Office of the District Deputy Registrar, calling upon the APMC, Parbhani to submit the voters list with required amount, the District Deputy Registrar did not prescribe the cutoff date for preparation of voters list. The APMC, Parbhani, therefore requested the District Deputy Registrar by communication dated 05.05.2016 to communicate the cutoff date for preparation of voters list so that the list can be prepared and submitted. The District Deputy Registrar, by communication dated 27.05.2016, informed the APMC, Parbhani to submit list of eligible voters as on 31.01.2016 together with election fund, forthwith. On receipt of the communication from the District Deputy Registrar, voters list was prepared and tendered to the Office of the District Deputy Registrar within a period of 15 days. The petitioners submit that there is no failure on the part of the APMC, Parbhani to take steps for holding elections. In the meanwhile, the proposal was submitted to the Government through the District Deputy Registrar for extending term of the Managing Committee.

4. Section 15-A of the Maharashtra Agricultural

Produce Marketing (Development and Regulation) Act, 1963 provides for appointment of administrator after normal or extended term of the office of members expires. Section 15-A reads as under:

15A.(1) Notwithstanding anything contained in sub-section (3) of section 15 or any other provisions of this Act, where the term of office of two years, five years or as the case may be, the extended term of office, if any, under the proviso to sub-section (3) of Section 14, of the member of the Market Committee has expired, the director or any officer not below the rank of the District Deputy Registrar of Co-operative Societies, authorized by him shall, by order in writing, direct that -

(a) all members of the Committee shall, as from the date specified in the order, cease to hold and vacate their offices as members or otherwise; and

(b) the Administrator of the Board of Administrators appointed by the director or such authorized officer shall manage the affairs of the Committee, during the period from the date specified in the order upto the day on which the first meeting of the reconstituted committee after the election is held, where there is a quorum (hereinafter in this section referred to as

"the said period") such section shall be held within a period of six months from the date the administrator or the Board of administrators assumes office.

Provided that this period of six months may be extended, from time to time by the State government, in exceptional circumstances, to a period not exceeding one year in the aggregate, by notification in the Official Gazette, for reasons, which shall be stated in the notification.

Election and term of office of members is specified in Section 14. Term of office of the elected body is five years from the date of first meeting of the elected representatives. Sub Section (3) of Section 14 provides that except as otherwise provided in the Act, the members of the Market Committee not being a Committee constituted for the first time shall hold office for a period of five years and the members of a Committee constituted for the first time shall hold office for a period of two years.

Second proviso to section 14(3) lays down that where the general elections of members of a Committee could not be held for the reasons beyond the control of the committee before expiry of the term of office of its members as aforesaid, the State Government may, by

order in the Official Gazette, extend from time to time, the term of office of any such committee, so however, that the period for which the term of office is so extended shall not exceed the period of one year in the aggregate.

5. It is the contention of the petitioners in the instant matter that there is no failure on the part of the APMC, Parbhani to hold elections. There was a proposal for extension of term of the Managing Committee forwarded to the Government on 06.04.2016 which was recommended favourably by the District Deputy Registrar, Cooperative Societies, Parbhani on 12.04.2016. However, the State Government, instead of directing extension of the term of Managing Committee, has proceeded to invoke powers under Section 15A and directed appointment of Administrator. It is contended that in case of other two similarly situated Agricultural Produce Marketing Committees i.e. in case of Selu and Purna APMCs, the State Government exercised the powers under Section 14(3) second proviso, and has granted extension for a period of six months. However, in the instant matter, the State Government has selectively refused to exercise the powers.

6. Reliance is placed on the judgment in **Writ Petition No. 488/2012** in the matter of **Babasaheb s/o Apparao Akat and others Vs. the State of Maharashtra and others** to contend that if there is no failure on the part of the APMC to take steps for holding elections, it is appropriate for the State Government to consider proposal for granting extension of term of the Managing Committee. In paragraph No. 6 of the Judgment, the Division Bench has observed as follows:

6. It is not in dispute that the term of the present Committee expired on 11.07.2009. On expiry of the term, in absence of extension of term, consequences under Section 15A ought to follow. Indubitably, Section 15A does not contemplate automatic cessation of office of the members of the Committee whose term has expired. It postulates that the competent authority is obliged to take recourse to the said provision and pass appropriate order. Until such order is passed, in law, the actions of the Committee whose term has expired would still be valid and binding as if taken by duly elected Committee. In as much as, the members of the Committee, shall, as from the date specified in the order, cease to hold and vacate their

offices as members, by virtue of Section
15A(1)(a).

7. We adopt the same course as adopted by the Division Bench in Writ Petition No. 488/2012 in the matter of Babasaheb s/o Apparao Akat and others Vs. The State of Maharashtra and others, and quash and set aside the impugned decision. It is left open to the Marketing Authority to pass order as may be advised in accordance with the law on the proposal transmitted to the State Government on 12.04.2016 for extension of term of elected body or to appoint the Board of Administrator, as the case may be.

8. Necessary steps shall be taken within 10 days from today.

9. It would be obligation of the respondents to hold elections of the APMC, Parbhani as expeditiously as possible, and in any case within the period specified under the provisions of law.

10. Rule is made absolute accordingly. There shall be no order as to costs.

(K. L. WADANE, J.)

(R. M. BORDE, J.)

JPC