

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.2889 OF 2017

01 Shankar s/o Arjun Pawar,
age: 45 years, Occ: Agril.,

02 Sopan s/o Dadasaheb Jadhav,
age: 36 years, Occ: Agril.,

Both R/o Nimbhari, Tq.Newasa,
District Ahmednagar.

Petitioners

Versus

01 The State of Maharashtra,
through its Secretary,
Co-operative Department,
Mantralaya, Mumbai-32.

02 The District Deputy Registrar,
Co-operative Societies,
Ahmednagar, District
Ahmednagar.

03 The Assistant Registrar,
Co-operative Societies, Newasa,
Tq. Newasa, Distrit Ahmednagar.

04 The Administrator,
Kai. Appasaheb Bhagwan Jadhav,
Vividh Karyakari Seva Sahakari
Society Ltd., Nimbhari, Tq.Newasa,
District Ahmednagar.

05 Sau. Savitrabai Sharadchandra
Jadhav, age: 45 years, Occ:
Household, R/o Nimbhari,
Tq.Newasa, District Ahmednagar.

06 Shivaji Eknath Jadhav,
age: 48 years, Occ: Agriculture,
R/o Nimbhari, Tq. Newasa,
District Ahmednagar.

07 Narayan Arjun Gawali,
age: 42 years, Occ: Agriculture,
R/o Nimbhari, Tq. Newasa,
District Ahmednagar.

Respondents

Mr.V.D.Hon, Senior Counsel i/by Mr.N.D.Sonawane, advocate for petitioners.

Mr.S.B.Joshi, A.G.P. for Respondents No.1 to 4.

Mr.V.H.Dighe, advocate for Respondents No.5 & 6.

Mr.A.B.Kale, advocate for Respondent No.7.

**CORAM : R.M.BORDE &
K.L.WADANE, JJ.
DATE : 10th April, 2017**

ORAL JUDGMENT (Per R.M.Borde, J.):

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 Petitioners are objecting to the order dated 14.03.2017, passed by the Assistant Registrar, Co-operative Societies, Newasa, directing appointment of Administrative Committee in place of sole Administrator/authorized officer who was official of the Cooperation Department i.e. Assistant Registrar, Co-operative Societies, Newasa, District Ahmednagar.

3 It is not a matter of dispute that the elections to Co-operative Society i.e. Kai.Appasaheb Bhagwan Jadhav Vividh Karyakari Society Ltd., Nimbhari, Tq.Newasa, District Ahmednagar, are due and in fact programme of election has been published on 06.04.2017 by the State Cooperative Election Authority for the purposes of holding elections to the Managing

Committee of the Society.

4 It does appear that one Mr. Vishwanath Tulshidas Pawar tendered an application to the District Deputy Registrar requesting him to appoint a Three Member Committee consisting of Respondents No.5, 6 and 7 to replace the Administrator/authorized officer, who is an official of the State Government. The application tendered by Mr.Pawar has been rejected by the Assistant Registrar on 04.02.2017. It is pointed out that petitioners no.1 and 2 and others also tendered an application seeking their appointment in place of Administrator/authorised officer. The application tendered by the petitioners and others has also been turned down. It does appear that said Mr. Vishwanath Tulsidas Pawar approached the learned Minister for Co-Operation, Maharashtra State by tendering an application on 17.02.2017 making a request for appointing Respondents No.5, 6 and 7 in place of the Government nominated authorised officer. The Cabinet Minister, holding the portfolio of Co-Operation Department, sought a report of District Deputy Registrar and on consideration of its report, passed an order on 10.03.2017 and directed Respondent No.3 to take necessary steps. Accordingly, Respondent No.3 has passed the impugned order on 14.03.2017 appointing Respondents No.5 to 7 in place of Government authorized Officer.

5 The reason assigned for appointing the Administrative Committee, as has been disclosed from the impugned order, is that the Government Officer, who was holding charge as Administrator/authorised officer of the Society, has proceeded on

leave with effect from 01.03.2017 to 24.03.2017. The request appointing Administrative Committee has been made to the Hon'ble Minister on 17.02.2017. Thus, *prima facie*, there does not appear to be any nexus with the reason assigned by the State that the Assistant Registrar has proceeded on leave and as such, it was necessary to appoint Administrative Committee. It does appear that the order has been issued for replacing the authorized officer of the State Government by Administrative Committee as a result of the request made on behalf of the appointed Directors to the Hon'ble Minister holding portfolio of Co-Operation Department. Even assuming that the officer was to proceed on leave, it was necessary, in all probabilities, to entrust the charge of the authorised Officer with some other official of the Co-Operation Department. The report of the Assistant Registrar was actually received in the office of District Deputy Registrar on 27.02.2017 before the official proceeded on leave. The application was moved for making appointment of Administrative Committee by the petitioners before the official proceeded on leave, though the order has been actually passed on 14.03.2017. The reason assigned for effecting changes in the administration of the society does not appear to be genuine and proper.

6 It was totally uncalled for the respondents to replace the sole administrator/authorised officer, who is an official of the State Government, by making appointment of respondents no.5 to 7, who are interested in getting themselves elected as members of the Managing Committee of the society.

7 Learned Counsel appearing for petitioners points out

that Respondents No.5 to 7, are the candidates for the election and this itself is a circumstance to indicate their interest in the affairs of the society. In order to maintain the fairness in the process of election, the persons concerned (Respondents No.5 to 7) shall not be permitted back door entry in the manner, as has been provided.

8 Learned Counsel for respondents no.5 to 7 contends that since elections to the Managing Committee of the Co-operative Society are declared by the State Co-Operative Election Authority , the respondents may be permitted to function as Administrative Committee.

9 It must be noted that appointment of respondents no.5 to 7 itself, as has been recorded by us, is arbitrary and uncalled for and as such, they shall not be permitted to remain in office during continuance of the process of election and charge of the affairs of society shall be reverted back to the authorised officer, who shall be an employee of the Co-operative Department.

10 For the reasons recorded above, writ petition is allowed. The order impugned in this petition dated 14.03.2017, passed by the Assistant Registrar, Co-operative Societies, Newasa, District Ahmednagar, is quashed and set aside. The affairs of the Society shall be managed by the Assistant Registrar, Co-Operative Society, Newasa, during continuance of process of election and the Administrator/authorised officer shall hand over the charge to the newly elected managing committee after conclusion of process of election.

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

K.L.WADANE
JUDGE
adb/wp288917

R.M.BORDE
JUDGE