

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 329 OF 2017

Shri. Dilip Gangadhar Sopal ...Petitioner

Versus

The State of Maharashtra & Ors. ...Respondents

ALONG WITH

WRIT PETITION NO. 11131 OF 2016

Mr. Subhash Abhimanyu Shelake & Ors. ...Petitioners

Versus

The State of Maharashtra & Ors. ...Respondents

WITH

CIVIL APPLICATION No. 2998 OF 2016

IN

WRIT PETITION NO. 11131 OF 2016

Shri. Rajendra Sukhdeo Mirgane ...Petitioner

Versus

Mr. Subhash Abhimanyu Shelake & Ors. ...Respondents

ALONGWITH

WRIT PETITION NO. 7625 OF 2017

Mr. Hanmant Vitthal Aware & Anr. ...Petitioners

Versus

The State of Maharashtra & Anr. ...Respondents

ALONGWITH

WRIT PETITION NO. 13354 OF 2016

Shri. Shrikant Dattatraya Shinde ...Petitioner

Versus

The State of Maharashtra & Anr. ...Respondents

Mr. Vineet B. Naik, Sr. Advocate a/w Mr. Abhijit Kulkarni i/b D. D. & Abhijit Associates, for the Petitioner.

Mr. Y. S. Jahagirdar, Sr. Advocate i/b MR. S. S. Aradhye, for the Petitioners in WP/11131/2016 and WP/13354/2016.

Mr. R. B. Suryawanshi i/b Mr. Mandar Limaye, for the Petitioner in WP/7625/2017.

Mr. A. A. Kumbhakoni, Advocate General a/w Mr. C. P. Yadav, AGP for Respondent Nos.1 to 9, for Applicant in C.A. No.1163/2017, for Applicant Nos.1 and 2 in WP/11131/2016 and for Applicant Nos.1 to 4 in WP/13354/2016.

Mr. A. B. Tajane, for the Respondent Nos.5 and 6 in WP/13354/2017.

Mr. B. D. Joshi, for the Respondent Nos.11 to 17.

**CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.**

DATE : 12 July 2017

ORDER :

1. All these three Petitions involve various questions, with regard to, super-session of Managing Committee of Solapur APMC and Barshi APMC, as to whether the order of super-session is passed only on account of certain political reasons as to whether when the election process has commenced and as to whether, the elections are required to be held in pursuance to the amended provisions of the Maharashtra Agricultural Procedure Market Development and Regulation Act, 1963. We find that all these questions remain of academic interest, as of now, the basic grievance that appears to be subsisting is with regard to holding of the elections of the Managing Committee and the continuation of the private persons on the board of administrator of Barsi APMC.

2. We are of the considered view that since the Act is amended, the election will have to be conducted, as per amended provisions of the said Act. It will be relevant to refer clause (b) of Subsection (1) of Section 15A, which reads this : -

“15A(1)(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 reconstitute 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.”

3. It could thus clearly be seen that under the provisions of law administrator is required to hold the elections

within a period of six months from the date on which he assumes charge. However, in exceptional cases, the said period can be extended which shall not be more than one year in the aggregate. It could thus be clearly seen that the mandate of statute is very clear, the administrator is required to hold the elections within six months and in exceptional cases, the State Government may extend the said period which shall in no case, more than one year.

4. In the present case, we are of the view that the change in law should be construed as the 'exceptional circumstances', which will enable the State Government to increase the normal period of six months to one year. However, when the statute itself does not permit the administrator to continue for a period of more than one year, the elections will have to be held prior to expiry of period of one year from the date on which the administrator has assumed the charge.

5. Though the State Co-operative Election Authority has been duly served in the Petition, none appears for them.

6. We therefore, find it appropriate in the interest of Justice, that the Respondent State Co-operative Election Authority be directed to hold the elections within a period of one year from the date of which the administrator has assumed the charge. In the case of Solapur, the administrator has stated the charge on 17 October 2016 and in the case of Barshi 12 September 2016. We therefore, dispose of the Petitions with directions to Respondent No.18 i.e. Co-Operative Election Authority to complete the elections of Managing Committee of Solapur APMC on or prior to 17 October 2016 or Barshi APMC on or prior to 12 September 2016.

7. Insofar as the other grievances of Barshi APMC with regard to private persons being appointed on the Board of Administrator is concerned, learned Advocate General fairly states that the State Government is not keen on continuing of private persons on Board of Administration. He further submits that the allegation by the Petitioner that this was done only with the political motive is without foundation. As already discussed herein above, we do not find appropriate to go into the rival

issue.

8. However, we direct that the private persons on the Board of Administrator of Barshi APMC shall cease to be the members of the Board of Administrator with immediate effect. The State Government shall immediately appoint either a single Administrator or the Board of Administrator consisting of Competent Government officers, who are found appropriate to look after affairs of the Barshi APMC.

9. Till appropriate orders are passed by the State Government in this regard, as an interim measure, the District Deputy Registrar of Co-operative Societies is directed to take over the charge as an Administrator forthwith.

10. It is further directed that the Administrators shall look after the administration of the Committee on an ad-hoc arrangement and we therefore, direct that they would not take any major policy and financial decisions with regard to the affairs of APMC.

11. In that view of the matter, we dispose of these three

Petitions in the aforesaid term.

12. No order as to costs.

13. In view of disposal of these Petitions, Civil Applications, if any, do not survive.

14. Needless to State that we have not touched the merits of the matter and the respective contentions as are available to both the parties, are kept open.

[RIYAZ I. CHAGLA J.]

[B.R. GAVAI, J.]