

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (St) NO.6195 OF 2017

Mr. Punmudi Raju Kaunder & Ors. ..Petitioners

Vs.

The State of Maharashtra & Ors. ..Respondents

Mr. A. Y. Sakhare, Senior Advocate i/b Mr. H. R. Pawar for the Petitioners.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.1 and 2.

CORAM : R. M. SAVANT, J.

DATE : 9th MARCH, 2017

P.C.

. The above Writ Petition takes exception to the order dated 7/2/2017 passed by the Respondent No.1 i.e. the Hon'ble Minister for Co-operation by which order, Appeal No.1015/2016 filed by the Petitioners came to be dismissed and, resultantly, the order dated 24/10/2016 passed by the Joint Registrar, Co-operative Societies (Eastern and Western Suburbs) came to be confirmed.

2. The Petitioners are the members of the Managing Committee of the Petitioner No.10/Society. It is undisputed position that the term of the Petitioners has come to an end on 31/3/2016. It appears that the process of holding election of the Managing Committee of the Petitioner-10/Society has been initiated as the Election Officer has been appointed by the Election Authority in question for overseeing the said elections. In view of the fact that the tenure of the Petitioners has already come to an end on 31/3/2016 and since no elections were held to the Petitioner No.10/Society, the Joint

Registrar, Co-operative Societies therefore by his order dated 24/10/2016 has appointed an authorized officer by exercising powers under section 77(A) of the said Act for managing the affairs of the Society. The Joint Registrar in his order observed that having regard to the facts of the present case, the need for giving notice under section 77(A) of the said Act was obviated, as immediate action was required to be taken as contemplated by the second proviso to section 77(A) of the said Act.

3. The said order was passed by the Joint Registrar dated 24/10/2016 was taken exception to by the Petitioners by filing an Appeal before the State Government. The Appellate Authority having regard to the facts of the instant case did not deem it appropriate to interfere with the order passed by the Joint Registrar dated 24/10/2016 and, thereby dismissed the Appeal.

4. The learned senior counsel appearing on behalf of the Petitioners contended that the order under section 77(A) of the said Act has been passed without giving notice to the Petitioners as contemplated by the first proviso to the said Section. The learned Senior Counsel contended that there was no necessity to invoke section 77(A) of the said Act, in view of the fact that the process of holding elections has already commenced as the election officer has been appointed by the Election Authority.

5. In my view, it is not possible to accept the contentions urged by

the learned senior counsel for the Petitioners. Taking the last contention first, as indicated above the term of the Petitioners as Managing Committee members has already come to an end on 31/3/2016 and the Petitioners are continuing in view of the fact that no elections have been held. Since the term of the Managing Committee has come to an end as long back as on 31/3/2016, the exercise of powers under section 77(A) of the said Act without giving notice is covered by the second proviso to section 77(A) of the said Act. Hence, the need of notice to the Petitioners in the facts of the present case was obviated.

6. In my view, the impugned order does not warrant interference. The Writ Petition is accordingly dismissed.

7. The Election Officer to take expeditious steps to conduct elections to the Petitioner No.10/Society.

8. Pending the elections the Authorized Officer may assume charge of the Petitioner No.10/Society but would not take any major policy decisions and would not expend the funds of the Society for any other purpose than the day to day expenses of the Society.

[R.M.SAVANT, J]