

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 22 OF 2014

Richard D'Souza.

..Petitioner.

Vs.

State of Maharashtra & ors.

..Respondents

Mr. V.C. Ghosalkar, advocate for the Petitioner.

Mr.H.B. Takke, AGP for State.

Mr. Anilkumar K. Patil, advocate for the Respondent Nos. 5 and 6.

**CORAM : RANJIT MORE &
SMT.SADHANA S. JADHAV, JJ
DATE : 21ST AUGUST, 2017**

P.C.

1 Heard the learned Counsel for the respective parties.

2 The Petition is filed for following reliefs :

“(a) This Hon'ble Court be pleased to issue writ of certiorari or writ in the nature of certiorari or any other writ order or direction and be pleased to call for the records and proceedings from the office of Respondent no. 2 to 4 pertaining to the appointment of the Respondent no. 5 as Administrator of the Respondent no. 6 and after going into the legality and validity of

the same be pleased to declare that the Respondent no. 5 has no authority to continue as Administrator of the Respondent no. 6 after the expiry of six month statutory period.

b) This Hon'ble Court be pleased to issue Writ of mandamus or Writ in the nature of mandamus or any other Writ order or directions to the respondent no. 2 to 4 to appoint fit and proper person as Administrator of the Respondent no. 6 under section 73H and 77A with further directions to the said appointed Administrator to hold election to the Committee of the Respondent no. 6 within the statutory period of six months in accordance with law and hand over the charge of the Respondent no. 6 to the newly elected managing Committee.”

3 Mr. Ghosalkar, learned Counsel for the Petitioner submits that the Respondent No. 6 is the Cooperative Housing Society of which the Petitioner is a member. He further submits that the Respondent No. 5 is an Administrator appointed on respondent No. 6 Society on 3/3/2009 and till today he is continued. By filing this Petition, the Petitioner is seeking direction to hold election of the Managing Committee of the Respondent No. 6 Society.

4 Mr. Patil, learned Counsel for the Respondent Nos. 5 and 6 submits that the Administrator of Society time and again requested the Election Authority to hold election of the Managing Committee of the Respondent No. 6 Society. However, nothing is done.

5 The learned AGP on instructions states that from time to time the Respondent No. 5 Administrator was directed to hold election, however, the election could not be held for non-availability of the record of the Society.

6 It is settled position in law that the administrator appointed under the Cooperative Housing Societies Act, cannot continue for more than 6 months. In the present case, the respondent No. 5 administrator has continued since 2009 till today. That means the administrator of the Respondent No. 6 is continued for more than 8 years.

7 In the light of the above, we dispose of the Petition by passing following order :

ORDER

(i) The Maharashtra State Cooperative Election Authority is directed to hold election of the Managing Committee of the Respondent No. 6 Cooperative Housing Society (namely, Bijlee Cooperative Housing Society Ltd.)

within a period of four months from the date of receipt of this order.

(ii) In order to enable the Election Authority to hold election to the Managing Committee of the Respondent No. 6 Society, the Respondent No. 5 Administrator shall make all the records available to the Election Officer.

[SMT.SADHANA S. JADHAV,J]

[RANJIT MORE, J]