

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2798/2017

Ashok Panjabrao Dahikar and others

...Versus...

State of Maharashtra, Department of Cooperation, Mantralaya, Mumbai,
Through its Secretary and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.S. Kilor, Advocate for petitioners
Mrs. K.S. Joshi, Addl. G.P. for respondent nos.1 to 3

**CORAM : B.P. DHARMADHIKARI AND
ARUN D. UPADHYE, JJ.**

DATE : 11.08.2017

Heard Advocate Shri A.S. Kilor for petitioners and Additional Government Pleader Mrs. K.S. Joshi for respondent Nos.1 to 3. Nobody appears for respondent no.4 – Agriculture Produce Market Committee, though served.

2. On 4/5/2017, while issuing notice in this matter, this Court has granted *ad interim* relief, thereby petitioners are protected.

3. Petitioners claim that post of Chairman has become vacant because the incumbent occupying it has resigned on 27/3/2017. The resignation is accepted on 29/3/2017 and hence, in terms of Section 25 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, the vacancy for the post of Chairman ought to have been filled in by Collector immediately, but that has not been done.

4. Advocate Shri Kilor, submits that because of political intervention, respondent no.2 – Collector is avoiding to take necessary steps.

5. Additional Government Pleader is relying upon reply-affidavit. She points out that on 18/4/2017, Collector has sought guidance in the matter from State Government as earlier a direction was issued by concerned Minister not to proceed further with the elections.

6. Record shows that local Member of Legislative Assembly wrote a letter dated 6/4/2017 to concerned Minister pointing out huge corruption in respondent no.4 – A.P.M.C. and prayed for stay of election with request to Government to conduct enquiry in detail. He also sought registration of criminal offences and till then an Administrative Board.

7. Letter sent by Collector to District Deputy Registrar on 10/4/2017 shows that on this letter the Minister has ordered some enquiry and directed that election process should not be undertaken till then & the Hon'ble Minister also directed to appoint Board of Administrators on A.P.M.C.

8. Perusal of affidavit dated 25/7/2017 filed by respondent no.2 - Collector reveals that on 18/4/2017, Collector has sent further communication to State Government pointing out all these developments. He has further stated that District Deputy Registrar Cooperative Society, Amravati had appointed a Committee of three members to enquire and its interim enquiry report was also submitted. Committee had then sought time of three weeks more to complete the enquiry.

9. In this backdrop, respondent no.2 – Collector has specifically invited attention of State Government to Section 25 (1) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 and pointed out need of holding elections. The Collector has therefore sought further guidance in the light of directions issued by the Hon'ble Minister.

10. The affidavit mentioned (Supra) is sworn by respondent no.2 – Collector himself on 25/7/2017. Thus, thereafter from 18/4/2017 till date the State Government has not issued any guidance to respondent no.2 – Collector.

11. Appointment of Board of Administrators is possible only in four corners of law within the scheme of above mentioned 1963 Act. No such steps have been taken and therefore, the elected body is continuing in office. Mandate of Section 25 (1) of the Act of 1963 has been violated as in absence of any interim orders, respondent no.2 – Collector ought to have proceeded further to discharge his obligation. There is no order issued by any authority competent to stay election process. Post of Chairman is vacant since 29/3/2017.

12. In this situation, we direct respondent no.2 - Collector to proceed further in terms of Section 22 of the Act of 1963 to hold meeting of A.P.M.C. and to elect Chairman thereafter as per law within next two weeks.

13. Needless to mention that if enquiry as per law into the affairs of A.P.M.C. is going on it can continue and its outcome can also be given effect in accordance with law.

14. At this stage, Advocate Shri Kilor invites attention to prayer clause (2) in the petition. He submits that because of high-

handed political intervention, petitioners apprehend their removal from office at any time. It appears that in the light of said apprehension only this Court on 4/5/2017 granted *ad interim* relief. The respondents have not placed before this Court any show-cause-notice issued to petitioners in accordance with law. Respondent no.2 – Collector has pointed out that on 21/4/2017 on the basis of interim report, a show-cause-notice has been issued to petitioners under Section 45-A of the Act of 1963.

15. We permit the concerned authority to proceed further with the enquiry. Needless to mention that petitioners shall co-operate with that authority. Order passed therein, if adverse to petitioners, shall not be given effect for a period of two weeks.

Writ Petition is disposed of accordingly. No costs.

JUDGE

JUDGE

Wadkar