

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6618 OF 2017

NARAYAN EKNATHRAO KOTTAWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Ghatol Patil Shahaji B.
AGP for Respondents 1 to 5: Mr. S.N. Kendre
Advocate for Respondent No.6 : Mr. S.K. Kadam
Advocate for Respondent Nos. 28 to 32 and 43 to 47 : Mr. Y.P. Deshmukh

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CORAM : V. K. JADHAV, J.
DATED : 16th JANUARY, 2018

PER COURT:-

1. Heard learned counsel for the respective parties.
2. It appears that respondent No.5 initially has appointed the authorized Officer by order dated 6.12.2016 in terms of provisions of section 77A of Maharashtra Co-operative Societies Act 1960 and thereafter by order dated 6.5.2017 has appointed the Administrative committee, consisting of private individuals under the provision of Section 77A of the Societies Act. Though the learned counsel for the petitioners has vehemently submitted that under the directions of the Minister, respondent No.5 has appointed such committee consisting of private individuals, in terms of provisions of sub-section (3) of Section 77A, the committee or authorized officer so appointed shall hold office for a period of six months from the date of assuming the

management of the society and shall make necessary arrangement for constituting the new committee within the said period and for enabling the new committee including any new committee referred to in clause (f) of sub-section (1), which is determined by the court to have been legally elected, to enter upon office. In terms of proviso to sub section (3) of Section 77A of the Societies Act, in no circumstances the term of office of the committee or authorized officer shall exceed six months from the date of their holding office. The question of deciding the validity of the appointed committee consisting of private individuals, is purely academic one since their term is expired even if their term is considered from the order dated 6.5.2017.

3. Learned counsel for the respective respondents have also not disputed this legal position.

4. In view of above and since the elections of respondent Nos. 7 to 17 were due and tenure of elected managing committee members came to be expired, as detailed in the affidavit in reply filed by respondent No.5, writ petition can be disposed of in terms of prayer clause "C".

5. The respondent authorities can take effective steps for holding

the elections and concerned society through their respective Secretaries may respond to the authorities for holding the elections as expeditiously as possible. The respondent societies through their respective Secretaries shall complete all formalities and shall submit provisional voters list as well as to deposit the election expenses within one month from today. In view of above, following order is passed:-

O R D E R

- I. Writ petition is partly allowed in terms of prayer clause "C".
- II. The respondent authorities shall take effective steps for holding elections of respondent Nos. 7 to 17 societies and concerned society through their respective Secretaries may respond to the authorities for holding the elections as expeditiously as possible.
- III. The respondent societies through their respective Secretaries shall complete all formalities and shall submit provisional voters list as well as to deposit the election expenses within one month from today.

- IV. If the provisional voters list and election expenses are submitted to the authorities, as directed, the respondent authorities shall start the election process within reasonable period.
- V. Needless to say that since the term of administrative committee is already expired in terms of sub section (3) of Section 77A of the Societies Act, the authorized officer/committee shall not interfere in the affairs of the society.
- VI. Writ petition is disposed of accordingly.

(V. K. JADHAV, J.)

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