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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 2708 OF 2018

Bharat B. Sawant & Anr

...Petitioners

V/s.

Shri Sanjay Vernekar & Ors

...Respondents

Mr. Sanjiv A. Sawant i/b. Mr. Abhishek P. Deshmukh for the  
Petitioners.

Ms. K.N. Solunke, AGP for State/Respondent Nos. 3 & 4.

**CORAM : R.D. DHANUKA, J.**  
**DATE : 19TH MARCH, 2018.**

**P.C. :-**

1. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 2<sup>nd</sup> February, 2018 passed by respondent no.3.
2. It is the case of the petitioners that the notice was issued by the erstwhile officer prior to 1<sup>st</sup> January, 2018. The charge of the such post was handed over to respondent no.3 on 1<sup>st</sup> January, 2018. No hearing was given by respondent no.3 after he took charge on 1<sup>st</sup> January, 2018 before passing the impugned order dated 2<sup>nd</sup> February, 2018 to the petitioners.
3. I have also perused the affidavit in reply filed by the

respondents. The respondents have placed reliance on the roznama dated 23<sup>rd</sup> November, 2017 which indicates that the erstwhile officer had closed the proceedings. It is not in dispute that the impugned order, however is passed by the officer who took charge from 1<sup>st</sup> January, 2018. In my view, the respondent no.3 also took charge on 1<sup>st</sup> January, 2018 could not have passed the impugned order without giving any fresh hearing to the petitioners, since the proceedings were closed by the erstwhile officer on 23<sup>rd</sup> November, 2017, who was transferred. The impugned order dated 2<sup>nd</sup> February, 2018 is thus in violation of principles of natural justice and thus deserved to be set aside.

4. Mr. Sawant, learned counsel for the petitioners, however invited my attention to the letter dated 12<sup>th</sup> December, 2017 addressed by the petitioners to the District Election Officer informing that the petitioner society had already passed a resolution on 24<sup>th</sup> September, 2017 in the 5<sup>th</sup> annual general meeting resolving to hold a fresh election. By the said letter dated 12<sup>th</sup> December, 2017 by the petitioners, the District Election Officer was requested to initiate election process and to further declare the elections of the managing committee for further period of 5 years at the earliest. Instead of holding the fresh election of the managing committee, the respondents appointed an administrator, which in my view is totally

illegal. Mr. Sawant, learned counsel for the petitioners states that the society is ready and willing to conduct fresh election of managing committee for further period of 5 years immediately. Statement is accepted.

5. The District Election Officer is directed to depute an officer to the petitioner society to chalk out the programme for conducting fresh elections of managing committee for next 5 years. The officer shall be deputed within three weeks from today. The petitioners as well as the District Election Officer shall proceed with conducting the fresh election of the managing committee for further period of 5 years.

6. In so far as, the impugned order dated 2<sup>nd</sup> February, 2018 is concerned, in my view the said order is illegal and is thus set aside. Writ petition is allowed in the aforesaid terms. There shall be no order as to costs. Parties to act on the authenticated copy of this order.

**(R.D. DHANUKA, J.)**