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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3174 OF 2019

Mr.Naresh Khanchandani & Ors.] ..Petitioner.
v.
The Deputy Registrar of Co-operative]
Societies & Ors.] ..Respondents.

Mr.Rahul Rao alongwith Ms.Purnima Awasthi for the Petitioner.
Mr.Y.R. Mishra alongwith Mr.Upendra Lokegaonkar for Respondent
Nos. 3 and 4.
Mrs.S.S.Bhende, AGP for the State.
Mr.Devdas Aroskar, Administrator-Respondent No.2 in person present.

**CORAM : INDRAJIT MAHANTY &
A.M. BADAR, JJ.**

DATE : 23rd APRIL, 2019.

P.C.

1] Heard learned counsel for the respective parties as well as
Respondent No.2 in person.

2] Note of submission has been provided to this Court by Respondent
No.2-Administrator, wherein, he has stated that the members of the
Managing Committee have not handed over the following documents :

- I] Society's original Pan Card
- ii] Society's original Registration Certificate.
- iii] Approved Original Bye Laws.

3] The Respondent No.2-Administrator submits that he is unable to proceed with the statutory job as an Administrator, without access to the above documents.

4] We record our regard that insofar as Pan Card is concerned, there is no requirement of the Administrator to have the Society's Original Pan Card and if Pan Card is required for any purpose, it is stated by the learned counsel for the Petitioners that photocopy of the Pan card has already been provided to the Respondent No.2-Administrator. Consequently, if for any reason the Pan Card is required, he can always seek for duplicate Pan Card of the Society.

5] So far as original Registration Certificate is concerned, we are of the considered view that there is no dispute that the Society is a registered Society. Consequently, calling upon ex-managing committee to provide original Registration Certificate would really serve no real purpose and Administrator can seek for photocopy of the same from the office of the Deputy Registrar.

6] Insofar as original approved bye-laws are concerned, it is stated on behalf of the Petitioners that photocopies of the bye-laws have been provided, but it lacks the stamp. Similarly, if the Administrator requires the same, he can seek certified copy of the approved bye-laws from the office of the Deputy Registrar.

7] In the light of aforesaid discussion, we are of the considered view that the three documents which the Administrator sought for are not issued for which election of the Managing Committee of the Respondent -Society can be

withheld. It is stated on behalf of the Petitioners that although the Society had intimated the Authorities concerned well in time about appointment of an Election Officer to conduct the elections, yet for various administrative reasons no Election Officer can be appointed within the scheduled time. Consequently, the period for the Managing committee being lapsed, resulted in appointment of Respondent No.2 as an Administrator. He asserts that the Society consist of only 17 units. Consequently, the administration of such a society should be handed over to the elected Managing Committee and there should be no delay in conducting the elections.

8] Respondent No.2 in his submissions brought to our notice a circular issued by the State Government under Exhibit D dated 11th April, 2019 in terms of which he asserts that no election of the Society can be held without initiating process of election after 1st of June, 2019. Accordingly, he has prepared Tentative Election Programme commencing from 1st June, 2019 and declaration of results on 30th June, 2019.

9] After going through circular issued by the State Government under Exhibit D, we find that the said circular itself contains a clause making the subject to any directions that may be issued by the Court. Accordingly, considering the fact that the society consist of only 17 units (15 members), there is no reason as to why election of the said society ought to be delayed. Accordingly, we direct the Administrator to take all necessary steps to commence the election programme on 1st May, 2019 and conclude the same by 30th June, 2019. Necessary changes in the tentative election programme to be carried out immediately.

10] Learned counsel for the Petitioners submits that the Petitioners operate three bank accounts i.e. New India Co-operative, Bank of India and Maharashtra State Co-operative Bank apart from having fixed deposits of about 25 Lakhs in the New India Co-operative Bank. We direct that the Administrator may operate the bank account of the Society at New India co-operative Bank for the purpose of meeting expenses for holding of elections.

11] Although, certain issues were raised, in view of the fact that as all the parties agreed, the present Administrator came to be appointed, there ought not to be reasons to delay the conduct of elections. Respondent No.2-Administrator also pointed out that since the year 2018-19 he is required to undertake audit of the accounts of the Society and to place the same before the Managing Committee. We are of the considered view that the same will not be necessary, since we have directed that the election process be completed till 30th June, 2019 and the duly elected Managing Committee shall ensure all statutory compliances, including audit etc.

12] It is also stated by the Petitioners that there are certain dues claimed by the Mumbai Municipal Corporation and disputes are pending before the appropriate authority. We are of the considered view that the Administrator should not do anything on the said score and allow the new Managing committee to take decision and steps on the said count. We make it clear that the Administrator shall take all necessary steps to hold elections within the period as directed hereinabove and all parties are directed to co-operate with the Administrator in this regard.

13] We further direct that no policy decision shall be taken by the

administrator in connection with any dispute pending between the members and society as well as with the Mumbai Municipal Corporation, which shall remain the responsibility of the newly elected managing committee, for and on behalf of the Society.

14] Writ Petition stands disposed off in terms of the directions recorded hereinabove.

[A.M. BADAR, J]

[INDRAJIT MAHANTY, J]