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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3168 of 2019

Juhu Cooperative Housing Society Limited]
Through Anant Dube & Ors.] ..Petitioners

v.

Divisional Joint Registrar Co-operative Societies & Ors.] ..Respondents.

WITH

WRIT PETITION NO.3175 of 2019

Juhu Cooperative Housing Society Limited]
Through Anant Dube & Ors.] ..Petitioners

v.

District Co-operative Election Authority & Ors.] ..Respondents.

Mr.K.S. Patil i/by Ms.Rukmini Khairnar for the Petitioner in WP No.3168/2019.

Mr.K.S. Patil for the Petitioner in WP No.3175/2019.

Mr.A.P. Vanarase, AGP for State in WP No.3168/2019.

Mrs.S.S. Bhende, AGP for State in WP No.3175/2019.

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

DATE : 13th MARCH, 2019.

P.C.

1] Heard the learned counsel for the respective parties.

2] In Writ Petition No.3168 of 2019, the Petitioner-society has sought to challenge the order passed by Respondent No.2-Deputy Registrar Co-operative Societies, H/West Ward dated 19th November 2018 appointing Administrator under Section 77(A)(1)(ii) of the Maharashtra Co-operative Societies Act (Exhibit A). It appears that the Petitioner-society has also filed an Appeal No.298 of 2018 before the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai and while vacating interim order of stay, the said Appeal came to be rejected by order dated 23rd January, 2019 (Exhibit B). Challenging the said order, the Petitioner-society has filed Revision Application No.136 of 2019 and grievance is raised that inspite of filing of Revision Application, it is not being taken up for consideration and stay.

3] In Writ Petition No.3175 of 2019 the Petitioner- Society has sought to challenge the notice issued by the Administrator calling for holding of elections for the three vacant posts of the Managing Committee of the Petitioner-society.

4] Learned counsel for the Petitioner-society contends that under Exhibit -B the Maharashtra State Co-operative Election Authority by its order dated 6th February, 2019 has specifically directed for taking up the process for filling up of three vacant posts in the Managing Committee . Instead of complying with that direction, the Administrator has issued a notice under Exhibit-D purportedly attempting to reconstitute the entire Managing Committee.

5] After hearing the learned counsel for the respective parties, we are of the considered view that the Administrator cannot act contrary to the

directions issued to it by the Maharashtra State Co-operative Election Authority as directed by its order dated 6th February, 2019 under Exhibit B.

6] Although the Petitioner-Society has also sought to challenge the appointment of the Administrator in its revision before the Divisional Authority, learned counsel for the Petitioner-Society submits on instructions that the said Revision Application will be withdrawn if the Court considers directing the Administrator to hold the election as per the schedule proposed, but limited to filling up of three vacant posts as directed by the appropriate authority.

7] It is important to point out here that the learned AGP has brought to our notice the fact that in the meantime an Ordinance has been passed on 9th March, 2019 in terms of which the authority to hold the elections is with the Committee and since the Petitioner-society is a B class society, the election authority under this statute no longer is any Authority and the Society is required to carry election process on its own keeping in mind the interest of the members of the society and maintaining and carrying out responsibilities caused with the Managing Committee under the Maharashtra Co-operative Societies Act.

8] After hearing the learned counsel for respective parties and after recording assurance given by the learned counsel for the Petitioner-society, we are of the considered view that the following order would meet the ends of justice :

ORDER

i] The Petitioner-Society shall withdraw Revision Application No.136 of 2019 filed before the Divisional Authority.

ii] The Administrator shall carry out the elections as proposed in Exhibit D in Writ Petition No.3175 of 2019, but limit the election process to filling up of three vacant posts of the Managing Committee. The Administrator shall act with due promptitude and complete the election process at the earliest.

iii] Nothing stated in this order shall prejudice any party and the other issues raised herein are left open for consideration in an appropriate case.

iv] Accordingly, Writ Petition Nos.3168 of 2019 and 3175 of 2019 stand disposed off.

(A.M. BADAR, J)

(INDRAJIT MAHANTY, J)