

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1924 OF 2014

Mr.Anandrao Bhimrao Patil

.. Petitioner

Vs.

The Director of Marketing,
Maharashtra State & Ors.

.. Respondents

Mr.M.S. Topkar a/w. Mrs. Pavitra Manesh, Advocate for petitioner.

Mr.N.K. Rajpurohit, AGP for respondent Nos.1 and 2.

**CORAM : B.R. GAVAI &
N.J. JAMADAR, JJ.**

DATE : 23RD JANUARY 2019

ORAL JUDGMENT (PER B.R. GAVAI, J.) :

1 Rule. Rule is made returnable forthwith and by consent, the petition is taken up for final hearing.

2 The petitioner has approached this Court being aggrieved by the order dated 16th July 2013 passed by respondent No.1 thereby refusing to grant approval to the appointment of the petitioner as Secretary of respondent No.3-Society/Bazar Samiti.

3 The petitioner was initially appointed as Clerk on the establishment of respondent No.3. In the meeting dated 19th August 2004, respondent No.3 resolved to appoint the petitioner as Secretary of the respondent No.3-Society/Bazar Samiti. The proposal for grant of approval for the said

appointment was made to respondent No.1 through respondent No.2. Respondent No.1, vide order dated 27th December 2005, granted approval to the appointment of the petitioner as Secretary initially on probation of one year. After completion of the probation period of one year, respondent No.3 submitted a proposal to respondent No.2 to grant permanent approval for regularization of the petitioner on the post of Secretary. Respondent No.2 recommended the case of the petitioner to respondent No.1. However, there was no progress at the end of respondent No.1. Thereafter, again, vide the communication dated 25th June 2013, respondent No.2 recommended the case of the petitioner for grant of approval to regularize the petitioner as Secretary. Vide the impugned order dated 16th July 2013, the said proposal was rejected. Hence, the present petition.

4 The learned counsel for the petitioner submitted that rejection of the proposal for grant of approval for the post of Secretary on the basis of the Government Resolution dated 15th July 2013 itself is not sustainable. The counsel submitted that the said Government Resolution cannot be made retrospectively applicable and said Government Resolution itself provides that it is prospectively applicable. The counsel further submits that, in any event, the said Government Resolution is stayed by the order of the Division Bench in the matter of *Maharashtra State Market Committee's*

Co-operative Federation Ltd., Pune Vs. The State of Maharashtra &

Ors.¹. Shri Rajpurohit, the learned AGP supports the impugned order and submits that respondent No.1 has rightly rejected the proposal of the petitioner.

5 We find that the order impugned in this petition is not sustainable because the petitioner was appointed initially on the post of Secretary on 19th August 2004. Respondent No.1, vide order dated 27th December 2005, has granted approval for promotion of the petitioner to the post of Secretary, with one year's probation period. Respondent No.2-District Deputy Registrar, Co-operative Societies has, on two occasions, i.e., on 28th November 2007 as well as 25th June 2013, recommended the petitioner's case for approval for regularization. The complaint (ULP) No. 213 of 2006 with regard to the petitioner's promotion as Secretary has been dismissed by the learned Industrial Court, Kolhapur on 25th September 2012.

6 We find that the ground for denying regularization relying on the Government Resolution dated 15th July 2014 is not sustainable because the said Government Resolution itself provides that it is applicable prospectively. However, the appointment of the petitioner on the post of Secretary is much prior thereto. In any case, the said Government Resolution has already been stayed by a Division Bench of this Court in the

1 Writ Petition No. 7720 of 2013 dt. 21st October 2013

case of *Maharashtra State Market Committees' Co-operative Federation Ltd., Pune* (Supra).

7 In view of the above, we find that the impugned order is not sustainable in law. Though the petitioner was duly promoted as Secretary, he cannot be permitted to be continued on probation in eternity. The petition is, therefore, allowed. Rule is made absolute in terms of prayer clause (a). No order as to costs.

[N.J. JAMADAR, J.]

[B.R. GAVAI, J.]