

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.2492/2016
(Ramdayal Sewakram Pardhi .vs. The Assistant Registrar Co-operative Societies, Tumsar and another.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. S.S. Paliwal, Advocate for Petitioner.
Ms. Ritu Kalia, AGP for Respondent Nos. 1 & 2.

CORAM : Manish Pitale, J.
DATED : January 04, 2019.

By this writ petition, the petitioner has challenged order dated 21.04.2016 passed by the Divisional Joint Registrar Co-operative Societies, Nagpur, whereby application for stay moved on behalf of the petitioner was rejected.

2. The petitioner was elected as Chairman of Tumsar Sahkari Shetki Kharedi Vikri Samiti. The respondent no.1 passed order dated 22.03.2016 removing the petitioner from the post of Chairman of the said Samiti by invoking powers under Section 78-A(1)(b) of the Maharashtra Cooperative Societies Act, 1960.

3. Aggrieved by the said order, the petitioner filed revision under Section 154 of the aforesaid Act before the respondent no.2 Divisional Joint Registrar Cooperative Societies, Nagpur. In the appeal, the petitioner pointed out that the respondent no.1 had erred in passing the order dated 22.03.2016 removing him from the post of Chairman, on various grounds

including violation of principles of natural justice. Along with the said appeal, the petitioner moved an application for grant of stay pointing out that there is an urgency in the matter. It was also pointed out that the provisions of Section 78-A of the said Act would not apply in the case of the petitioner as there was no Government shareholding or loan or financial assistance insofar as the Samiti was concerned. It was contended that there was strong *prima facie* case made out by the petitioner because if stay is not granted, he would not be able to contest the election of Agricultural Produce Marketing Committee, Tumsar.

4. By the impugned order, the respondent no.2 rejected the application for stay on the ground that the contesting respondent was yet to enter appearance and that unless the respondents were heard, the question of interim relief could not be decided.

5. On 28.04.2016, this Court issued notice in the present writ petition and *ad interim* stay to the effect and operation of order dated 22.03.2016 passed by the respondent no.1, was granted. As a result, the petitioner contested the election of the A.P.M.C. Tumsar and it is informed by the learned counsel for the petitioner that he was indeed declared elected as Member of the said Committee.

6. Considering the fact that this Court granted interim relief in faovur of the petitioner on 28.04.2016 and the appeal is still pending before respondent no.2, it would be in the interest of justice that the interim order is continued and a direction is given to the respondent no.2 to decide the appeal itself expeditiously.

7. Accordingly, this writ petition is disposed of with a direction that the interim order dated 28.04.2016 passed by this Court shall continue to operate during the pendency of Appeal No. 12/2016 filed by the petitioner and pending before the respondent no.2. The respondent no.2 shall decide the said appeal expeditiously and in any case within a period of three months from today.

8. Writ petition is disposed of.

JUDGE

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