

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION (ST) NO.10472 OF 2020
IN
WRIT PETITION NO.2924 OF 2020

STATE CO-OPERATIVE ELECTION AUTHORITY,
MAHARASHTRA STATE, PUNE AND OTHERS ..APPLICANTS

VERSUS

ISHWAR S/O. MADHAV PATANGE AND ORS. ..RESPONDENTS

AND
CIVIL APPLICATION (ST) NO.10468 OF 2020
IN
WRIT PETITION NO.2686 OF 2020

AND
CIVIL APPLICATION (ST) NO.10470 OF 2020
IN
WRIT PETITION NO.3512 OF 2020

AND
CIVIL APPLICATION (ST) NO.10471 OF 2020
IN
WRIT PETITION NO.2292 OF 2020

AND
CIVIL APPLICATION (ST) NO.10473 OF 2020
IN
WRIT PETITION NO.2986 OF 2020

AND
CIVIL APPLICATION (ST) NO.10474 OF 2020
IN
WRIT PETITION NO.3463 OF 2020

AND
CIVIL APPLICATION (ST) NO.10475 OF 2020
IN
WRIT PETITION NO.3015 OF 2020

AND

CIVIL APPLICATION (ST) NO.10476 OF 2020
IN
WRIT PETITION NO.3504 OF 2020

AND
CIVIL APPLICATION (ST) NO.10477 OF 2020
IN
WRIT PETITION NO.2907 OF 2020

AND
CIVIL APPLICATION (ST) NO.10478 OF 2020
IN
WRIT PETITION NO.2681 OF 2020

AND
CIVIL APPLICATION (ST) NO.10479 OF 2020
IN
WRIT PETITION NO.3504 OF 2020

AND
CIVIL APPLICATION (ST) NO.10480 OF 2020
IN
WRIT PETITION NO.3008 OF 2020

AND
CIVIL APPLICATION (ST) NO.10481 OF 2020
IN
WRIT PETITION NO.2910 OF 2020

AND
CIVIL APPLICATION (ST) NO.10482 OF 2020
IN
WRIT PETITION NO.3127 OF 2020

AND
CIVIL APPLICATION (ST) NO.10483 OF 2020
IN
WRIT PETITION NO.2983 OF 2020

AND
CIVIL APPLICATION (ST) NO.10484 OF 2020
IN
WRIT PETITION NO.2768 OF 2020

AND
CIVIL APPLICATION (ST) NO.10485 OF 2020

IN
WRIT PETITION NO.2237 OF 2020

AND
CIVIL APPLICATION (ST) NO.10486 OF 2020
IN
WRIT PETITION NO.2091 OF 2020

AND
CIVIL APPLICATION (ST) NO.10487 OF 2020
IN
WRIT PETITION NO.3657 OF 2020

AND
CIVIL APPLICATION (ST) NO.10488 OF 2020
IN
WRIT PETITION NO.2524 OF 2020

AND
CIVIL APPLICATION (ST) NO.10489 OF 2020
IN
WRIT PETITION NO.3155 OF 2020

AND
CIVIL APPLICATION (ST) NO.10490 OF 2020
IN
WRIT PETITION NO.3499 OF 2020

AND
CIVIL APPLICATION (ST) NO.10491 OF 2020
IN
WRIT PETITION NO.2642 OF 2020

...
Mr. S. K. Kadam and Mr. V. H. Dighe, Advocates for
the Applicants.

Mr. V. D. Sapkal i/b Mr. S. R. Sapkal, Mr. H. D.
Deshmukh, Mr. S. P. Salgar h/f N. V. Gaware, Mr. G.
B. Rajale, Mr. P. D. Bachate, Mr. A. V. Hon,
Advocates for Non-Applicants.

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CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATED : 23rd MARCH, 2020.

PER COURT:-

1. The civil applications are filed in the disposed of and pending matters. Under the judgment and order dated 11.03.2020 in Writ Petition No.2924/2020 with other connected writ petitions, we had set aside the Notification issued by the State of Maharashtra dated 27.01.2020 and 31.01.2020 postponing the election of Co-operative Societies for further period of three months as ultra vires to the constitutional provision, so also Section 73CC and 157 of the Maharashtra Co-operative Societies Act, 1960.

2. We had delivered the above referred judgment on the ground that the reasons mentioned in the Notification did not stand the test of Section 73CC and 157 of the Maharashtra Co-operative Societies Act, 1960, so also the constitutional mandate.

3. Today the situation is different. The whole world including India is battling with COVID-19. The exponential rise in COVID-19 cases is alarming. Various measures are taken. The learned in-charge Government Pleader referred to that Section 144 of the Cr.P.C. has been imposed throughout the State of Maharashtra and in many areas there is total or partial lock down.

4. It is further submitted by learned in-charge Government Pleader that the government has

issued a Notification on 13.03.2020 under the Epidemic Diseases Act, 1897 for taking measures and making provisions to prevent the spread of COVID-19.

5. The law is never rigid. It will have to take into consideration the prevalent situation and the measures taken to curb the menace of COVID-19.

6. Nobody is aware of the period the epidemic and menace of COVID-19 would continue.

7. If for these reasons the State Government or the State Co-operative Election Authority or such other authority is not in a position to conduct the election within the time frame, then the same may not tantamount to contempt of the judgment and order passed in the writ petitions. The principle of *vis major* would apply.

8. In light of the above, the District Co-operative Election officer, the State Government or such other Competent Authority may take decision with regard the postponement of the election and its process considering the fact and situation and may take such other steps as are permissible and required under the Statute.

9. Civil Applications are disposed of.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE