

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4095 OF 2021

Dhanraj Rajabhau Munde and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri V. D. Salunke and P. D. Bachate, Advocates h/f Shri A. D. Khot, Advocate for Petitioners.

Shri D. R. Kale, Incharge G.P. for the Respondent Nos. 1.

Shri S. K. Kadam, Advocate for Respondent Nos. 3 and 4.

Shri S. S. Thombre, Advocate for the Intervenor.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 02ND MARCH, 2021.

FINAL ORDER :

. Mr. Salunke, the learned counsel for the petitioner submits that, the amendment to the bye-laws of the society to the extent of Clause 34-A(5) was assailed before the Hon'ble Minister. The Hon'ble Minister in the year 2015 granted stay to the said amendment. The matter was not heard for almost six years and now abruptly at the behest of the rival party, the Hon'ble Minister has issued notice on 26.02.2021 and kept the matter for hearing on 02nd March, 2021. The learned counsel further submits that, it is with malafide intention said notice has been issued. For six years the Hon'ble Minister did not get the time to even issue notice and when House is in Session and it is difficult to get entry for the common man the hearing is scheduled on 02.03.2021. This shows the malafide intention of the Hon'ble Minister. The petitioners are apprehending adverse orders. If

the stay granted by the Hon'ble Minister six years back is rejected, their appeals filed before the competent authority would become infructuous. According to the learned counsel fifteen days protection be granted in case adverse order is passed by the Hon'ble Minister considering the malafides expressed in the petition.

2. The matter is subjudice before the Hon'ble Minister. No orders are passed yet. The appeal, it appears filed by the petitioner No. 2 is pending since six years. The orders that would be passed by the Hon'ble Minister cannot be visualized today. In case Hon'ble Minister passes order adverse to the interest of petitioners, petitioners have remedy available to assail the same. The matter before the Hon'ble Minister is challenging the amendment to the bye-laws. The petitioners are apprehending that, if challenge to the amendment effectuated in bye-laws fail, the petitioners would be adversely affected. The petitioners in a way would be seeking relief of collateral consequences. It would be premature today to conclude about any aspect of the matter. Naturally, the Hon'ble Minister will hear the parties before passing the order.

3. With the aforesaid observations, the writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]
bsb/March 21