

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

942 WRIT PETITION NO.2575 OF 2021

SAMBHAJI SHANKAR RAKTATE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. V. D. Hon i/b Mr. Ashwin V. Hon
AGP for Respondent nos. 1 to 3: Mr. S.G. Karlekar
...

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

DATED : 7th APRIL , 2021.

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PER COURT :

1. Heard the learned counsel for the petitioners and the learned GP for the respondents.
2. The petitioners assailed the communication dated 04/12/2020 appointing the Administrator so also the decision rejecting the request of extension of the term.
3. The term of the petitioners managing committee expired. Thereafter the Administrator is appointed. The request to extend the term of the managing committee is also rejected.
4. The impugned order appointing Administrator and rejecting the request for extension of term is bereft of any reasons.

5. We have under our judgment and order dated 1st March, 2021 disposed of group of writ petitions bearing Writ Petition No. 5164 of 2020 with connected writ petitions, wherein the request to extend the term of the managing committee of the respective APMCs was negated without assigning reasons. In the said writ petitions we have set aside the order. In the present case also we do not find any reasons given while rejecting the request for extension of the term. In the judgment dated 01/03/2021 in Writ Petition No. 5164 of 2020 with connected writ petitions we had observed as under :

“54. Having regard to the stock of citations relied upon by both the sides and the position of law laid down in those citations, legal proposition is very much clear. No APMC can claim extension of term as of right. The member of APMC has no right to continue in an elected office. Right to continue in an elected office is neither a constitutional nor a common law right. It is a statutory right given by the Act of 1963. The State Government has discretionary powers to extend the term of APMC. It is not obligatory on the part of the State to extend the term of APMC after expiry of period of five years term. The factual scenario arising out of respective petitions of APMCs has projected a picture that the State has used its discretionary powers in an arbitrary and capricious manner. As

discussed herein before, certain APMCs have been given extension without assigning any reason and straightway Administrators came to be appointed on the said APMCs. This action of the State of Maharashtra is nothing but pick and choose policy as per its convenience. There is no rational behind it.

55. The State Government has taken a decision to postpone the elections of APMCs in the State of Maharashtra due to extraordinary situation of Covid-19 pandemic. The decision of the State Government to postpone the elections of APMCs in the State of Maharashtra cannot be faulted with in the present scenario. The question is about granting extension to the APMCs in the State. To grant extension to the APMCs is a policy decision. It would be a uniform decision by the State Government on the subject as a policy matter. No policy decision seems to have been taken by the State Government having regard to the pros and cons of the impugned decisions of the State Government are nothing but colourable exercise of the powers. The impugned decision taken by the State for appointing Administrators on the respective APMCs of the petitioners are not fulfilling the requirement as enumerated under section 14(3) of the Act of 1963. As such, the impugned decisions are found defective in the eye of law. Those do not stand on the legal platform. We have

no manner of doubt to arrive at conclusion that impugned decisions are outcome of colourable exercise of powers and do not sustain in the eyes of law. Those decisions need to be quashed and set aside.”

6. In light of above and for the reasons recorded in the judgment and order dated 1st March, 2021 in Writ Petition No.5164 of 2020 with connected writ petitions, we pass the similar order. Hence, following order:

ORDER

- I) The impugned decision of the State authority of appointing Administrator in respect of the APMC, Kopergaon, District : Ahmednagar so also the decision rejecting the request of extension of the term are set aside.
- II) The State authority shall take decision afresh on the proposal of the petitioner for extension of the Board of APMC, Kopergaon taking into consideration the Covid-19 pandemic situation and also the record complaints against the board of directors.
- III) The Board of Directors of APMC, Kopergaon shall not take policy decisions, till the State authorities take decision on their proposal afresh.

- IV) Rule is made absolute accordingly.
- V) Writ petition stands disposed of.
- VI) In view of disposal of writ petition, civil application also stands disposed of. No costs.

(SHRIKANT D. KULKARNI, J.) (S. V. GANGAPURWALA, J.)

vsm/-