

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

**WRIT PETITION NO.1119 OF 2021**

Makarand Balkrushna Borade ... Petitioner  
Vs.  
State of Maharashtra and ors. ... Respondents

**WITH  
INTERIM APPLICATION (ST.) NO.9289 OF 2021  
IN  
WRIT PETITION NO.1119 OF 2021**

Jyotirling Sahakari Dudh Vyavasayik ... Applicant  
**In the matter between:**  
Makarand Balkrushna Borade ... Petitioner  
Vs.  
State of Maharashtra and ors. ... Respondents

**WITH  
WRIT PETITION NO.1122 OF 2021**

Tanaji Krushnat Patil ... Petitioner  
Vs.  
State of Maharashtra and ors. ... Respondents

**WITH  
INTERIM APPLICATION (ST.) NO.9284 OF 2021  
IN  
WRIT PETITION NO.1122 OF 2021**

Jyotirling Sahakari Dudh Vyavasayik ... Applicant  
**In the matter between:**  
Tanaji Krushnat Patil ... Petitioner  
Vs.  
State of Maharashtra and ors. ... Respondents

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**In Writ Petition No. 1122 of 2021**

Mr.Veerendra Tulzapurkar, Senior Advocate i/by Mr.Mandar Soman, Advocate for the Petitioner.

Mr.P.K.Dhakephalkar, Senior Advocate alongwith Mr. S.S.Patwardhan i/ by Mr.B.R.Mandlik, Advocate for the Intervenor.

Mr. Ravi M. Kadam, Special counsel alongwith Mr. P.P.Kakade, GP alongwith Mr. Y.D.Patil, AGP for the Respondent/State.

Mr.Deelip Patil Bankar, CSC-SCEA for Respondent No.2.

**In Writ Petition No. 1122 of 2021**

Mr.Prasad s. Dani, Senior Advocate i/by Mr. Prabhanjan Gujar, Advocate for the Petitioner.

Mr.P.K. Dhakephalkar, Senior Advocate alongwith Mr. S.S.Patwardhan i/by Mr. B.R.Mandlik, Advocates for the Intervenor.

Mr.Ravi M. Kadam, Special Counsel alongwith Mr. P.P.Kakade, GP and Mr. R.S.Pawar, AGP for the Respondent/State.

Mr.Deelip Patil Bankar, CSC SCEA for Respondent No.2.

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**CORAM : R.D.DHANUKA &  
V.G.BISHT, JJ.**

**DATE : APRIL 09, 2021.**

**P.C. :**

**INTERIM APPLICATION (ST.) NO.9289 OF 2021 IN WRIT PETITION NO.1119 OF 2021 WITH INTERIM APPLICATION (ST.) NO.9284 OF 2021 IN WRIT PETITION NO.1122 OF 2021 are not on board. Taken on board in view of urgency.**

1. The petitioner in Writ Petition No.1119 of 2021 seeks an order and direction against respondent Nos.1 and 2 to postpone, and to withhold the election of respondent No.3-society till covid-19 comes under control. Writ petition No.1122 of 2021 is filed for the said relief.

2. Interim application (St.)No.9284 of 2021 is filed by the

applicant Jyotirling Sahakari Dudh Vyavasayik Sanstha Maryadit *inter-alia* praying for dismissal of Writ Petition (St.)No.8821 of 2021 on the ground of non-joinder of necessary parties.

3. We permit the applicant in the said interim application to become party in Writ Petition (St.)No.8821 of 2021. Interim application is allowed. Amendment to be carried out within two weeks. We have heard the learned counsel appearing for the parties.

4. Dr.Tulzapurkar, learned counsel for the petitioner in writ petition No.1119 of 2021 and Mr.Prasad Dani, learned counsel for the petitioner in Writ Petition No.1122 of 2021 invited our attention to the orders passed by this court from time to time i.e. on 10<sup>th</sup> February, 2021, 11<sup>th</sup> February, 2021, notification dated 24<sup>th</sup> February, 2021, the order dated 2<sup>nd</sup> March, 2021, order dated 12<sup>th</sup> March, 2021 and the order issued by the Government of Maharashtra on 4<sup>th</sup> April, 2021.

5. It is submitted by the learned senior counsel for the petitioners that in view of the said order dated 4<sup>th</sup> April, 2021 issued under the provisions of Disaster Management Act, 2005 the State Government issued various directives imposing various restrictions in view of the

State of Maharashtra threatened with spread of covid-19 virus and to prevent control of the virus till 30<sup>th</sup> April, 2021. They submit that the election of respondent No.2 shall be directed to be postponed atleast till 30<sup>th</sup> April, 2021.

6. It is submitted by the learned senior counsel that under the said order dated 4<sup>th</sup> April, 2021 a curfew is imposed in paragraph No.1 of the said order in the State of Maharashtra during the hours described in clauses (a), (b) and (c).

7. Our attention is also invited to the restrictions imposed in paragraph No.13 of the said order for any political gathering for the purpose of campaigning. It is submitted that in view of these restrictions and in view of spread of covid -19 virus respondent No.3 cannot be allowed to go ahead with the election. It is submitted by the learned counsel that the said order dated 4<sup>th</sup> April, 2021 issued under the provisions of Disaster Management Act, 2005 would be binding least till 30<sup>th</sup> April, 2021. The election of respondent No.3 is thus required to be postponed.

8. Learned counsel submits that this court may clarify that as and

when the situation arising out of spread of covid-19 is improved, the election can be directed to be held from the stage at which the election process been already completed when election of respondent No. 3 is held in future.

9. Mr.Dhakephalkar, learned senior counsel for respondent No.3 and Mr.Ravi M. Kadam, learned special counsel for the State opposed this petition.

10. Our attention is invited to the order dated 12<sup>th</sup> March, 2021 passed by this Court in Writ Petition (St.) No.5327 of 2021 filed by Kolhapur Zilla Sahakari Dudh Utpadak Sangh Maryadi Interim application No.539 of 2021 filed by Jyotirling Sahakari Dudh Vyavasayik Sanstha Maryadit.

11. It is submitted by the learned senior counsel for respondent No.1 on the one hand and respondent No.4 on the another hand that by the said order this Court had refused to stay the election of respondent No.3 under the said order dated 24<sup>th</sup> February, 2021 by issuing various clarifications. It is submitted by learned senior counsel that in paragraph No.15 of the said order this court had already made

clear that if a pandemic in covid-19 is continued in future and if according to the State Government it is totally unavoidable for the State Government to hold election pursuant to the order passed by Courts in that event the State Government would be at liberty to seek modification considering the situation prevailing at that time. This court had already permitted the Government to go ahead with the election in accordance with the order dated 24<sup>th</sup> February, 2021. It is submitted by learned senior counsel that several steps have been already taken pursuant to the election program issued by respondent No.3 except the process of withdrawal of the nomination and holding of voting which is proposed to be held that on 2<sup>nd</sup> May, 2021.

12. It is submitted by learned senior counsel that the State Government has already provided various SOPs in the said orders dated 4<sup>th</sup> October, 2021 even in respect of the political gathering for the purpose of campaigning.

13. The elections of the respondent No.3 would be completed after complying that the SOP issued by the State of Maharashtra dated 4<sup>th</sup> April, 2021 and other SOPs in that regard.

14. Dr.Tulzapurkar and Mr.Dani, learned senior counsel for the petitioners would contend that the directives issued in paragraph No.13 of the order dated 4<sup>th</sup> April, 2021 permitting political gathering for the purpose of campaigning subject to the restrictions provided therein are in respect of the guidelines issued by the Election Commissioner of India have nothing to do with respondent No.3.

15. In the order dated 12<sup>th</sup> March, 2021 passed by this Court in writ petition filed by the Kolhapur Zilla Sahakari Dudh Utpadak Sangh Maryadit and in the interim application filed by Jyotirling Sahakari Dudh Vyavasayik Sanstha Maryadit, this Court did not interfere with the prayer for stay of the election in respect of respondent No.3-society for various reasons. The respondent No.3 had already had taken various other steps described in Rule 18 of the Maharashtra Co-operative Society (Election) Rules, 2014. The petitioner claims to be a representative of Kolhapur Zilla Sahakari Dudh Utpadak Sangh Maryadi which is in turn a member of respondent No.3-society.

16. By the said order dated 12<sup>th</sup> March, 2021 this Court having considered the fact that the several steps were already taken for conduct of the said election of respondent No.3 and in view of the

safeguards then already provided in the order dated 24<sup>th</sup> February, 2021, this Court permitted the State Government to go ahead with the election in accordance with the said order subject to compliance of the SOPs declared for covid-19.

17. A perusal of the order dated 4<sup>th</sup> April, 2021 issued by the Government of Maharashtra clearly indicates that no restrictions are imposed by the said order for holding of election is concerned. There is reference made to the orders passed by the State of Maharashtra in the said order from time to time. By our order dated 12<sup>th</sup> March, 2021 this Court had granted liberty to the State Government to apply for modification considering the situation of pandemic covid-19 prevailing at that time.

18. Mr.Kadam, learned special counsel for the State of Maharashtra states that according to the State of Maharashtra sufficient precautions will be taken as per SOPs proved by the State of Maharashtra while conducting election of respondent No.3. In view of the precautions already issued in paragraph No.13 of the order dated 4<sup>th</sup> April, 2021, the State of Maharashtra does not require any modification of the said order dated 12<sup>th</sup> March, 2021 passed by this court.

19. On perusal of paragraph No.13 of the said order dated 4<sup>th</sup> April, 2021 indicates that the State of Maharashtra is granted permission for any political gathering for the purpose of campaigning as per guidelines of the Election Commissioner of India with further restrictions and subject to complete adherence laid down for covid-19 protocol. In view of the fact that this Court has already permitted by order dated 12<sup>th</sup> March, 2021, to go ahead with election of respondent No.3-society subject to various safeguards, we are not inclined to grant any relief in these two petitions. There is no change in circumstances.

20. It is made clear that the State Government as well as the voters of respondent No.3 will have to follow the safeguards provided in various notifications /SOPs issued by the State of Maharashtra in respect of covid-19.

21. Writ petitions are devoid of merits and are accordingly dismissed. No order as to costs.

( V.G.BISHT, J. )

( R.D.DHANUKA, J. )

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