

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

WRIT PETITION NO.2471 OF 2021

Suresh Tatyasaheb Patil & Ors.	... Petitioners
V/s.	
State of Maharashtra & Ors.	... Respondents

Mr.Surel S. Shah for the Petitioners.

Mr.A.I.Patel Addl.G.P. i/b Dr.Kirti Kulkarni AGP for the Respondent-State.

**CORAM : UJJAL BHUYAN AND
MADHAV J. JAMDAR, JJ.**

**RESERVED ON : 13TH AUGUST, 2021
PRONOUNCED ON : 24TH AUGUST, 2021**

JUDGMENT (PER MADHAV J. JAMDAR, J.)

Petitioners by this Writ Petition have challenged order dated 2nd December, 2020 by which representation preferred by the Petitioners for extension of term of Managing Committee of Respondent No.4 – Agricultural Produce Market Committee, Vadgaon (Peth) Hatkanangale, District Kolhapur (hereinafter referred as “said APMC”) was rejected. Petitioners have also challenged order dated 8th September, 2020 by which Administrator was appointed with respect to said APMC.

2. Petitioners were members of said APMC. Petitioners were elected as Managing Committee members of the said APMC on 9th September, 2015. Their tenure was upto 8th September, 2020. Respondent No.1 – State of Maharashtra by Notification dated 24th January, 2020 postponed elections of all APMCs for six months. In view of Pandemic situation due to outbreak of Covid-19 virus Respondent No.1 again postponed elections of

all APMCs whose elections were due for period of six months from 24th July, 2020 vide G.R. dated 10th July, 2020. As tenure of the Managing Committee of the said APMC was upto 8th September, 2020, Petitioners submitted an application dated 5th September, 2020 seeking extension of their term as envisaged under section 14(3) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, (hereinafter referred as “the said Act”). According to the Petitioners, similar applications were filed by several other APMCs and the State Government had granted extension by passing relevant orders under section 14(3) of the said Act. Several such orders are annexed as Exhibit-C to the Writ Petition.

3. On 8th September, 2020, Respondent No.3 i.e. District Deputy Registrar, Co-operative Societies, Kolhapur passed order under section 14(3) read with section 15A of the said Act appointing Assistant Registrar, Co-operative Societies as Administrator of the said APMC.

4. In the aforesaid circumstances Petitioners filed Writ Petition (L) No.93634 of 2020 inter alia challenging appointment of Administrator and also to consider representation/application submitted by the Petitioners. This Court by order dated 8/10/2020 disposed of said Writ Petition by recording statement of the learned Additional Government Pleader, on instructions, that representation of the Petitioners would be decided on or before 31st October, 2020.

5. It is the contention of Petitioners that in the meanwhile by order dated 23rd November, 2020 Single Member Administrator was replaced by a Board of Administrators who are private individuals. Therefore, Petitioners filed Writ Petition (Stamp) No.96113 of 2020. The said Writ Petition was disposed of vide order dated 1st December, 2020 by recording

the statement of learned Additional Government Pleader that representation of the Petitioners would be decided within two weeks from 1st December, 2020. This Court further directed that status quo should be maintained qua appointment of the Administrator until decision was taken on representation of the Petitioners and for a period of two weeks thereafter.

6. It is the further contention of the Petitioners that despite order of status quo the Single Member Administrator was replaced by a Board of Administrators and therefore the Petitioners filed Contempt Petition No.25 of 2021. This Court vide order dated 16th February, 2021 issued notice in Contempt Petition No.25 of 2021. In said Contempt Petition, affidavit in reply dated 10/3/2021 was filed by the Deputy Secretary, Co-operation Marketing and Textile Department of State of Maharashtra and to the said affidavit in reply copy of order dated 2nd December, 2020 rejecting said representation was annexed.

7. In the meanwhile Respondent No. 1 issued G. R. dated 22nd April, 2021 by exercising power under Section 59 of the said Act. Following decisions were taken vide said G.R.: -

“1. Except where the elections of the Managing Committees of Agriculture Produce Market Committees are due and where the Hon'ble High Court / Hon'ble Supreme Court has directed to hold the elections, the elections of the remaining Managing Committees of the Agriculture Produce Market Committees in the State are postponed for a period of 6 months from 24.4.2021 i.e. till 23.10.2021.

2. Managing Committees of the Agriculture Produce Market Committees who are functioning on the date of passing of this order, however, the term of those Managing Committees is getting over during the above mentioned extension and there is complaint about irregularities against such Managing Committees and the enquiries in furtherance thereof have been started, except such Managing Committees, elections of the other Managing Committees are

postponed till 23.10.2021. However, the Managing Committees whose term of 5 years expires during this period, will not have any right to take policy decision during this extension. They would be looking after the affairs of the Committee only as an interim arrangement.

3. On the date of passing of this order, the Agricultural Produce market Committees on which the Administrator or the Nominated Administrative Body is appointed, the period of such Administrator or the Nominated Administrative Body is extended till 23.10.2021.”

8. Mr.Surel Shah, learned Counsel appearing for the Petitioners submitted that impugned order dated 2nd December, 2020 is a non speaking order as it only states that representation is rejected. He therefore submitted that said order is required to be quashed and set aside. He relied on judgments of Supreme Court reported in **(2010) 9 SCC 496 Kranti Association Pvt. Ltd. and Anr. vs. Masood Ahmed Khan and Ors.**

9. Learned Counsel of the Petitioners submitted that about 22 marketing committees in the State of Maharashtra have been granted extension and in some case such extension was granted even after tenure of the committee was over. He submitted that therefore action of the Respondents is unreasonable and arbitrary.

10. He further submitted that even otherwise the tenure of Administrator as per section 15(3A) is only for one year and the same expires on 7th September, 2021 and, therefore, elections will have to be held in view of mandatory provisions of law.

11. As far as Government Resolution dated 22nd April, 2021 is concerned, he submitted that the same will not apply to a Board of Administrators. He submitted that said Government Resolution applies to

the societies whose managing committee's tenure had come to an end and they are granted extension. He submitted that said Government Resolution exempts application of the provisions of the said Act to a society and not to a Board of Administrators. He relied on the judgments reported in **(1999) 6 SCC 141 Indian Labour Coop. Society Ltd. and Another vs. Union of India and Others**; **2013(4) Mh.L.J. 785 Dnyandeo Mohan Salunkhe and Another vs. State of Maharashtra and Others** and **2019 (6) B.C.R. 354 Balasaheb Devram Wagh & Ors. vs. Karmaveer Kakasaheb Wagh Sahakari Karkhana Ltd. & Ors.**

12. Mr.A.I.Patel, learned Additional Government Pleader appearing for the Respondent-State submitted that said Government Resolution also applies to all APMCs where Administrator or Board of Administrators are appointed. He submitted that as per written instructions dated 12/8/2021 of Cooperation, Marketing and Textile Department of State of Maharashtra steps will be taken for conducting elections after 23rd October, 2021.

13. There is substance in the contention of learned Advocate for the Petitioners that several APMCs were granted extensions and in many cases extensions were granted even after the tenure of managing committees were over. Said orders were passed in view of pandemic situation due to outbreak of Covid-19 virus by exercising power under section 14(3) of the said Act. Thus not granting such extension to the Petitioners may not be justified. There is also substance in the Petitioners' contention that their representation dated 5/09/2020 was rejected by a non-speaking order and therefore same is illegally rejected. Furnishing of reasons is part of the due process. Non-furnishing of reasons, may amount to violation of the principles of natural justice, thus vitiating the decision making process.

14. However, in view of subsequent developments we refrain ourselves from dealing with the contentions raised by the Petitioners in detail. The Petitioners have challenged in this Writ Petition order dated 8/09/2020 appointing Assistant Registrar as Administrator. However, said order is no more in existence as by further order dated 23/11/2020 Board of Administrator has been appointed to conduct the affairs of said APMC. This Writ Petition was filed on 5/04/2021 and subsequently amended on 17/06/2021. Petitioners have not challenged the said order dated 23/11/2020. Petitioners have not impleaded the persons who have been appointed as members of the Board of Administrators by order dated 23/11/2020 as Respondents to the present Writ Petition. They are going to be affected if adverse order is passed and therefore necessary party to the present Writ Petition.

15. It is admitted position that the tenure of Board of Administrators would be getting over on 7th September, 2021. As per Government Resolution dated 22nd April, 2021, the term of Board of Administrators has been extended till 23/10/2021. A perusal of important clauses of the said G.R. clearly shows that the same is applicable to all APMCs including those APMCs where Administrator/Board of Administrators have been appointed. Thus there appears to be no substance in the contention raised by the Petitioners regarding applicability of the said G.R. dated 22/04/2021.

16. Learned Additional Government Pleader on the basis of written instructions dated 12/08/2021 submitted that steps would be taken to conduct the elections to the said APMC after 23rd October, 2021. As per Rule 18 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 minimum 40 days will be required for conducting elections.

17. Thus, although we are not dealing in detail with the legality of the impugned orders dated 2nd December, 2020 and of 8th September, 2020, however, we direct that in the facts and circumstances of this case Respondent – State of Maharashtra shall take immediate steps for holding elections to the Agricultural Produce Market Committee, Vadgaon (Peth), Taluka Hatkanangale, District Kolhapur and complete the election process on or before 31st October, 2021.

18. Writ Petition is disposed of in above terms.

[MADHAV J. JAMDAR, J.]

[UJJAL BHUYAN, J.]