

Shephali/Shiv

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8002 OF 2021

Sagar Maruti Patil & Anr	...Petitioners
<i>Versus</i>	
State of Maharashtra & Anr	...Respondents

Mr Rahul S Kadam, *with Akshay R Kapadia*, for the Petitioner.
Mr RP Kadam, *AGP*, for the State/Respondent No.1. t.
Mr Dilip Bodake, for Respondent No.2.

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 14th December 2021

PC:-

1. There is an Affidavit in Reply filed by the Assistant Registrar, Cooperative Societies. We have considered it. It provides, in our view, a complete answer to the Petition. It points out that there is a duty on the State Cooperative Election Authority (“SCEA”) to conduct elections periodically. It accepts that this is both a statutory and a contractual right. Consequently, Mr Kadam’s reliance on the decision of this Court in *Ishwar & Ors v State of Maharashtra & Ors*¹ by the Division Bench of this Court at Aurangabad, is really not contentious at all.

1(2020) 4 Mah LJ 491.

2. What the Affidavit in Reply does say is that the State Government implemented a loan waiver scheme or karjamukti scheme in January 2020 and postponed the elections of district central cooperative banks, primary agricultural cooperative societies and other cooperative societies for three months. Then came the Covid-19 pandemic and all elections almost across the board had to be postponed.

3. The consequence of this was a sort of pile up of scheduled elections in 2020 for various societies. But the loan waiver scheme and the pandemic required the Government to start the election process in a phased manner for the entire State. It planned six phases. Each phase has a different consideration and these have been fully set out in a table below, paragraph 5 of the Affidavit in Reply which reads thus:

No. Phase No.		Particulars
1.	1	Where the elections were stalled due to the COVID, when the election process was ongoing are included in the first phase
2.	2	Where the term of Managing Committee/Administration of the Co-operative Societies was over on 31.12.2019 are included in second phase.
3.	3	Where the term of Managing Committee/Administrator of the Co-operative Societies was over from the period of 01.01.2020 to 31.03.2020 are included in third phase.
4.	4	Where the term of Managing Committee of the Co-operative Societies was over from the period 01.04.2020 to 30.06.2020 are included in fourth phase.
5.	5	Where the term of Managing Committee of the Co-operative Societies was over from the period of 01.07.2020 to 30.09.2020 are included in fifth phase.
6.	6	Where the term of Managing Committee of the Co-

operative Societies was over from the period
01.10.2020 to 31.12.2020 are included in sixth phase.

4. The Affidavit then says that the 2nd Respondent, The SCEA, took into consideration that about 30% of the posts in the cooperative department are vacant. There was limited available manpower to even conduct the elections. What the SCEA then did was to direct the elections in Phase 1 and then follow this with elections in Phase 2 and so on. Paragraph 7 points out that those societies where elections are due from 1st January 2022 to 31st March 2022 are among the ones where an election process has been started.

5. In the meantime, Section 73-AAA of the Maharashtra Co-operative Societies Act, 1960 was amended to make an exception, allowing committees to continue if an election could not be held for any reason not attributable to members of the societies.

6. There is an undertaking in paragraph 9, which we accept, to the effect that the SCEA will pass separate orders and announce election programmes for those societies in phases 4 to 6.

7. In view of this, we see no reason to make an exception for the present society. In fact, an order to that effect would be seriously disruptive of the phased programme evolved by the SCEA having regard to ground realities.

8. We see no reason to exercise our discretion under Article 226 of the Constitution of India. If the elections to the society of which

the Petitioners are members is not held according to the prescribed schedule, the Petitioners are free to move the Court in that regard.

9. The present Petition is rejected. There will be no order as to costs.

10. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)