

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

WRIT PETITION NO.2469 OF 2021

Prashant Vishwasrao Deore & Ors. ... Petitioners
V/s.
State of Maharashtra & Ors. ... Respondent

**WITH
WRIT PETITION NO.2472 OF 2021**

Vilas Deore & Ors. ... Petitioners
V/s.
Agricultural Produce Market Committee,
Umarne, Tal. Deola, Dist. Nashik & Ors. ... Respondents

Mr.Amit Sale i/b Sachin Gite for the Petitioner in WP No.2469/2021.
Mr.Pramod Joshi for the Petitioners in WP No.2472/2021 and for
Respondent Nos.7, 10, 11, 13 to 19, 21 and 22 in WP No.2469 of
2021.
Mr.A.I.Patel Addl.G.P. i/b Dr. Kirti Kulkarni AGP for the Respondent-
State.
Mr.Avinash Fatangare i/b P. D.Jadhav for Respondent Nos.5, 6, 8, 9,
12, 20 and 23 in WP No. 2469 of 2021.
Mr.Vishwanath Talkute for Respondent No.24 in WP No.2469 of 2021.

**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 in Writ Petition No.2469 of 2021 are challenging order dated 26/08/2020 passed by Respondent No.3 i.e. District Deputy Registrar of Co-operative Societies, Nashik. Respondent No.3 by the impugned order appointed Board of Administrators consisting

of Respondent Nos.5 to 23 as members for administering the affairs of Umrane Agricultural Produce Market Committee. Petitioners are also challenging letter dated 25/08/2020 issued by Respondent No.1 to Respondent No.3 directing Respondent No.3 to appoint Respondent Nos.5 to 23 as members of the Board of Administrators for said APMC. Petitioners are also seeking relief that Respondent No.4 - Assistant Registrar of Co-operative Societies, Deora, District Nashik be appointed as Administrator to look after the affairs of said APMC.

2. Petitioners claim that they are either present or past members of Vivid Karyakari Seva Sahakari Society Ltd. or of Gram Panchayat and also agriculturist and therefore vitally interested in the functioning of said APMC.

2.1. Petitioners in Writ Petition No. 2472 of 2021 are challenging legality and validity of order dated 9/12/2020 of State Government by which six persons were added in the Board of Administrators of said APMC.

3. The factual aspects mentioned in Writ Petition No. 2469 of 2021 necessary for deciding the Writ Petition are set out hereinbelow. The parties are referred as per the title of Writ Petition No. 2469 of 2021.

(i) Umrane Agricultural Produce Market Committee (*hereinafter referred to as "said APMC"*) came to be established on 28/06/2012 under the provisions of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963, (*hereinafter referred to as "the said Act"*) and the Maharashtra Agricultural Produce Marketing (Development and

Regulation) Rules, 1967 (hereinafter referred as “the said Rules”).

(ii) Thereafter elections were held for electing managing committee members of the said APMC and 18 persons were elected. The said elected body was notified by Respondent No.3 by notification dated 26/02/2016 issued under section 14(4) (a) of the said Act read with Rule 83 of the said Rules. The period of elected body was from the year 2016 to 2021.

(iii) On 13/07/2018, Respondent No.3 by exercising power under section 45(1) of the said Act superseded the managing committee of said APMC and appointed Respondent No.4 - Assistant Registrar of Co-operative Societies, Malegaon, District Nashik as Administrator of said APMC.

(iv) Members of market Committee who were superseded filed Writ Petition No.7869 of 2018 and this Court by order dated 24/07/2018 quashed and set aside order dated 13/07/2018 on the ground that opportunity of hearing was not given to affected persons and remanded back the matter to Respondent No.3.

(v) After remand Respondent No.3 by order dated 9/10/2018 passed by exercising power under section 45(1) of the said Act superseded managing committee of said APMC and appointed Respondent No.4 as the Administrator to administer the affairs of said APMC.

(vi) Members of the market committee who were superseded challenged said order dated 9/10/2018 by filing Writ Petition (Stamp) No.29743 of 2018 and same was dismissed by this Court by Judgment and Order dated 14/01/2019.

(vii) Period of Respondent No.4 appointed by said order dated 9/10/2018 as Administrator came to an end on 8/04/2019. Respondent No.1 by order dated 16/07/2019 extended appointment of Respondent No.4 as the Administrator for a further period of six months from 9/04/2019 till 8/10/2019.

(viii) Respondent No.1 by exercising power under section 14(3A) of the said Act issued notification dated 24/01/2020 postponing the elections of all Agricultural Produce Market Committees in the State of Maharashtra for a period of six months i.e. till 23/07/2020.

(ix) In view of pandemic situation due to outbreak of Covid-19 virus, Respondent No.1 issued G.R. dated 10/07/2020 postponing the elections of all APMCs whose elections were due for six months from 24/07/2020. Thus, Respondent No. 4- Assistant Registrar of Co-operative Societies, Deora, District Nashik continued as the Administrator.

(x) On 26/08/2020, Respondent No.3 appointed Board of Administrators consisting of 19 members (i.e. Respondent Nos.5 to 23) of the said APMC. It is the contention of the Petitioners that members of said new Board of Administrators are very

close relatives of members of superseded managing committee. It is the Petitioners' case that same was done at the instance of local M.L.A who is Agriculture Minister of the State Government. It is very important to note that supersession of earlier committee by order dated 9th October, 2018 has been confirmed by this Court by order dated 14/01/2019.

(xi) In this background Petitioners filed Writ Petition No.2469 of 2021 challenging legality and validity of order dated 26/08/2020 of Respondent No.3 by which new Board of Administrators consisting of Respondent No.5 to 23 was appointed to manage the affairs of said APMC.

4. In the meanwhile, by order dated 11/12/2020, names of Petitioner No.3, Petitioner No.8, Petitioner No.13 and three other persons were included as members in said new Board of Administrators in addition to members earlier appointed i.e. Respondent Nos.5 to 23. Some of the members of Board of Administrators challenged said order dated 11/12/2020 by filing Writ Petition No.2472 of 2021.

5. After filing of both the aforesaid Writ Petitions following events have taken place which are also relevant for deciding these Writ Petitions :

(i) Government of Maharashtra issued a Notification dated 22/01/2021 by exercising power under Section 59 of the said Act and postponed the elections of all the Agricultural Produce Market Committees whose elections were due for a period of three months from 24/01/2021.

(ii) Respondent No.1 by exercising power under Section 15(A) (1) (b) issued a Notification dated 8/03/2021 and extended the period of Board of Administrators of said APMC from 27/02/2021 to 26/08/2021.

(iii) 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.”

6. We have heard Shri Amit Sale, learned Counsel appearing for

the Petitioners in Writ Petition No.2469 of 2021, Mr. Pramod Joshi, learned counsel appearing for the Petitioners in Writ Petition No. 2472 of 2021 and for Respondent Nos.7, 10, 11, 13 to 19, 21 and 22 in Writ Petition No.2469 of 2021, Mr. Avinash Fatangare for Respondent Nos. 5, 6, 8, 9, 12, 20 and 23 in Writ Petition No. 2469 of 2021, Mr. A.I.Patel, learned Additional Government Pleader for the Respondent-State, and Mr.Vishwanath S. Talkute, the learned Counsel appearing for Respondent No.24 in Writ Petition No.2469 of 2021.

7. Mr. Amit Sale, learned Counsel appearing for the Petitioners in Writ Petition No. 2469 of 2021 submitted that impugned order dated 26/08/2020 appointing new Administrative Committee consisting of Respondent Nos.5 to 23 is a total malafide exercise of power and the same is arbitrary as well. He submitted that in view of serious complaints the elected body of said APMC was superseded by Respondent No. 3 by order dated 9/10/2018 passed by exercising power under section 45(1) of the said Act and the Writ Petition challenging the same was dismissed by this Court by order dated 14/01/2019. In these circumstances appointing new Administrative Committee consisting of Respondent Nos.5 to 23 who are near relatives of earlier members is totally illegal and malafide. He further submitted that in any case appointment of new Administrative Committee as per the impugned order dated 26/08/2020 was for a period of six months. The said period was extended by order dated 8/03/2021 and the extended period also comes to an end on 26/08/2021. According to him, under section 45(2)(c) of the said Act the initial period of six months can only be extended by further period of six months and therefore, in any case Respondent Nos.5 to 23

cannot hold office after 26/08/2021. Thus, he submitted that the impugned order dated 26/08/2020 be quashed and set aside and Respondent No.4-Assistant Registrar of Co-operative Societies, Deora, District Nashik be appointed as the Administrator till elections are held.

7.1. He further submitted that directions be issued to conduct the elections of said APMC on or before 20th September, 2021. The two Vivid Karyakari Societies have elections by the end of September-2021 and second week of October-2021 (Tisgaon Vivid Karyakari on 28th September, 2021 and Girnare Vikas Karyakari Societies on 8th October, 2021). Total number of voters for the election of said APMC is near about 450 members. Thus according to his submission early election would not be a difficult task even in the situation of the outbreak of COVID-19 pandemic situation.

8. Mr. Pramod Joshi, learned Counsel appearing for Respondent Nos.5 to 23 submitted that there is no prohibition in the Act in appointing relatives of earlier committee members. He submitted that there is sufficient material on record to show that performance of new Administrative Committee is excellent and various steps have been taken by them in improving functioning of said APMC. In Writ Petition No. 2469 of 2021 impugned order is dated 26/08/2020 and period of said order was only upto 26/02/2021 which had expired due to efflux of time. He submitted that by further order dated 8/03/2021 said period has been extended till 26/08/2021. However, Petitioners have not impugned the said order dated 8/03/2021 by amending the Writ Petition. Therefore, the Petition has

become infructuous and deserves to be dismissed as such. However, he submitted that he has no objection for holding election of said APMC; only the present Board of Administrators be continued till elections are held.

9. Mr. Avinash Fatangare, learned counsel appearing for some of the Respondents also raised similar contentions as raised by learned counsel Mr. Pramod Joshi. He submitted that present Board of Administrators are conducting the affairs of said APMC in an efficient manner and therefore, the said arrangement should be continued.

10. Mr. A.I.Patel, learned Additional Government Pleader appearing for Respondent Nos.1 to 4 submitted that this Court by order dated 17/08/2021 passed in I.A No.1270 of 2021 in Writ Petition No.2469 of 2021 has recorded statement of Respondent Nos.1 to 4 to the effect that election to said APMC would be held by 31/10/2021 and, therefore, the Petition has become infructuous. He pointed out letter dated 12/08/2021 of Respondent No.1 addressed to the Assistant Government Pleader wherein it is mentioned that the steps to hold election of said APMC will be taken after 23/10/2021. He therefore submitted that Writ Petition be disposed of in the above terms.

11. Mr. Vishwanath Talkute, learned counsel appearing for Respondent No.24 -said APMC submitted that he has no objection for holding elections as early as possible. However, the Board of Administrators appointed for said APMC may be continued till elections are held and new body of said APMC is elected.

12. Submissions made by learned counsel for the parties have received the due consideration of the Court.

13. From a perusal of the contentions raised in the Writ Petition particularly, in paragraph 13, close relationship between the members of new Board of Administrators appointed of said APMC vide impugned order dated 26/08/2020 and earlier committee which was superseded by order dated 09/10/2018 is very apparent. The relevant portion of said paragraph No. 13 (by referring Respondent number of Writ Petition No. 2469 of 2021) is reproduced hereinbelow for ready reference:-

“13. The names of the persons who are closely related to the members of the previous Market Committee are as follows:-

[1] Smt. Sonali Vilas Deore (Respondent No.5) is the wife of Shri Vilas Mohanrao Deore

[2] Smt. Shobha Mahendra Patil (Respondent No.19) is the wife of Shri Mahendra Aher Patil

[3] Smt. Manisha Ramrao Thakare (Respondent No.18) is the wife of Shri Ramrao Namdeo Thakare

[4] Shri Keshav Yadav Shewale (Respondent No. 9) is the father of Shri Milind Keshav Shewale

[5] Smt. Anita Vishawas Baste (Respondent No.20) is the wife of Shri Vishwas Jayram Baste

[6] Shri Maniram Damu Ahire (Respondent No.16) is the father of Shri Sanjay Maniram Ahire

[7] Shri Gaurao Kartik Khairnar (Respondent No. 17) is the son of Smt. Vijayabai Kartik Khairnar

Thus the Petitioners state that all the previous members of the Market Committee by using their political influence are again trying to make backdoor entry as the members of the Administrative Committee which cannot be permitted.”

14. It is significant to note that the above contention of Petitioners is almost admitted and in any case not denied by Respondent Nos. 5

to 23, although some of them have filed affidavit-in-reply. The said averments having not been controverted would be deemed to have been admitted by the Respondents. It is thus apparent that few members of new Board of Administrators are very close relatives of members of earlier committee which was superseded on account of serious allegations.

15. As set out hereinabove the earlier elected committee of said APMC was superseded by order dated 09/10/2018 and the Writ Petition challenging the same was dismissed by this Court by Judgment and Order dated 14/01/2019. Serious allegations are made against the earlier elected committee. We are reproducing para 11 of the said order dated 14/01/2019 just to demonstrate seriousness of allegations against members of earlier elected committee.

“11. In this context, if the directions under Section 40(e) of the Act dated 30th November, 2017 are perused. It becomes abundantly clear that the grievance i.e., the agriculturalists who had sold their agricultural produce to the traders in the market committee were not paid the price of the produce was personally verified and found to be true by the Deputy Registrar. Respondent no.2, on 30th November, 2017 and, thereafter, the said directives were issued. From the perusal of the record, we have found that the Petitioners have not disputed the fact that about 135 agriculturists were not paid and the dues were to the tune of Rs.1,28,00,000/- as of 17th April, 2018.”

16. Therefore, very rightly this Court did not interfere in the supersession of the earlier committee and dismissed the challenge made to the supersession.

17. There is thus substance in the contention raised by the

Petitioners that appointment of the new Board of Administrators by the impugned order is a malafide exercise of power and amounts to backdoor entry of the members of superseded committee. We may also note the submission of Mr. Pramod Joshi; learned counsel appearing for Respondent Nos. 7, 10, 11, 13 to 19, 21 and 22 and Mr. Avinash Fatangare, learned counsel appearing for some of the Respondents to the effect that there is sufficient material on record to show that the new Administrative Committee had discharged their duties diligently and various steps have been taken by them in improving functioning of said APMC. However, as the period of new Board of Administrators as extended by notification dated 08/03/2021 is expiring on 26/08/2021, we are not dealing in detail with legality of impugned order dated 26/08/2020. For the same reason we are also not dealing with the contentions raised in Writ Petition No. 2472 of 2021, wherein the challenge is to the addition of new six persons in the said Administrative Committee though we cannot resist observing that the new persons were added to the Administrative Committee in the same manner in which Respondent Nos. 5 to 23 in Writ Petition No. 2469 of 2021 and some of the Petitioners of Writ Petition No. 2472 of 2021 were appointed.

18. It is to be noted that Section 45(2) (c) of the said Act empowers the State Government to appoint Administrator or Board of Administrators for carrying out the functions of the Market Committee initially for a period of six months and thereafter for further period of six months. Thus, the maximum period for which the Board of Administrators or Administrator can be appointed is only one year. There is no power for extension of appointment of Board of

Administrators or Administrator beyond a period of one year. Therefore, it is very clear that the present Board of Administrators consisting of Respondent Nos.5 to 23 cannot hold office after 26/08/2021.

19. On the basis of Government Resolution dated 22/04/2021 issued under section 59 of the said Act, it may be possibly argued that the period of Board of Administrators is extended till 23/10/2021. It is to be noted that none of the Respondents have raised such submission. However, in the present case, Administrator/Board of Administrators are administering the affairs of the said APMC since 09/10/2018. Serious allegations were made against the earlier elected committee and therefore, the same was superseded by the Administrator. Many members of the present Board of Administrators are near relatives of the members of superseded committee. Their duration is only till 26/08/2021. Therefore, by taking into consideration totality of the circumstances it is necessary to hold elections of said APMC as early as possible. It is also necessary to direct that till elections are held, Respondent No. 4 should act as the Administrator of said APMC, after 26/08/2021.

20. Mr. Joshi and Mr. Fatangare, the learned counsel appearing for some of the Respondents also raised contention that since the period of the Board of Administrators under impugned order dated 26/08/2020 was completed on 26/02/2021, the Writ Petitions have become infructuous. They submitted that said period stand extended by subsequent order dated 08/03/2021, however said order is not impugned in the present Writ Petition. They thus submitted that

therefore the Writ Petition No. 2469 of 2021 has become infructuous and be dismissed as such.

21. It is settled legal position that Court exercising jurisdiction under Article 226 of the Constitution of India can mould the relief. However, it is important to note that by substantive prayer clause (c), Petitioners have sought appointment of Respondent No. 4 as Administrator of said APMC. Thus, the contention that the Writ Petition has become infructuous has no basis.

22. It is submitted by the Petitioners that two Vividh Karyakari Societies have elections by the end of September-2021 and second week of October-2021 respectively. It is submitted that as far as Tisgaon Vividh Karyakari Society is concerned, their elections are to be held on 28th September, 2021 and as far as Girnare Vikas Karyakari Society is concerned, their elections are to be held on 08/10/2021. It is submitted that the total number of voters of said APMC elections are only about 450 members. Thus, it is submitted that even in this situation also the elections can be held by following of COVID-19 norms before 28/09/2021.

23. By our order dated 17/07/2021 passed in Interim Application No.1270 of 2021 we have already observed that the State authorities shall do the needful to hold elections to the Managing Committee of APMC, by 31/10/2021. Now at this stage to direct the State to hold elections on or before 28th September, 2021 is not possible as sufficient time is required to be given to the State authorities to conduct the election of said APMC. Perusal of Rule 18 of Maharashtra Agricultural

Produce Market Committee (Election to Committee) Rules, 2017 show that at least 40 days will be required for conducting the election of APMC.

24. Thus, we dispose of Writ Petition No. 2469 of 2021 and Writ Petition No. 2472 of 2021 by passing the following directions:-

ORDER

- (a) Respondent No.4-the Assistant Registrar of Co-operative Societies, Malegaon, District-Nashik shall function as the Administrator with effect from 26/08/2021 with respect to Umrane Agricultural Produce Market Committee, Tal. Deola, Dist. Nashik till holding of elections;
- (b) Respondent No.4 is directed not to take any major policy decision and only to conduct the day to day affairs of the said APMC.
- (c) Respondent No.1-State Government is directed to take immediate steps for holding the elections of Umrane Agricultural Produce Market Committee, Tal.- Deola, District-Nashik and such election shall be held on or before 31/10/2021.
- (d) Writ Petitions are disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J)

(UJJAL BHUYAN, J)