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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2235 OF 2021

|                                |                |
|--------------------------------|----------------|
| Anunagar Co-op. Hsg. Soc. Ltd. | ...Petitioner  |
| V/s.                           |                |
| State of Maharashtra & Ors.    | ...Respondents |

Mr.S.S. Patwardhan with Mr.M.G. Bagkar i/b Mr.Chetan G. Patil for the Petitioner.

Mr.Sandesh Patil for the Intervenor.

Smt.Ashwini A. Purav,AGP for the State – Respondent.

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

**DATE : 3RD JULY, 2021.**

**P.C. :-**

**(THROUGH VIDEO CONFERENCE)**

1. Rule. Learned AGP waives service for the respondents. On the oral application of Mr.Sandesh Patil, learned counsel for the intervenor, whose clients were allowed to intervene in the earlier writ petition pursuant to an order passed by this Court by order dated 19<sup>th</sup> May, 2021, we have heard the learned counsel for the intervenor also in this writ petition. By consent of parties, the petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for an order and direction against the respondents to take appropriate steps for conducting election to the

post of Chairman and Honorary Secretary of the petitioner society.

3. Mr.Patwardhan, learned counsel for the petitioner society invited our attention to the order dated 20<sup>th</sup> November, 2020 passed by this Court in Writ Petition (Stamp) No.96015 of 2020 impugning the order passed by the Co-operative Court at Thane dated 28<sup>th</sup> August, 2020, 6<sup>th</sup> November, 2020 passed by the Appellate Court and also the order dated 19<sup>th</sup> May, 2021 passed by a learned Vacation Judge of this Court in Interim Application (Stamp) No.10711 of 2021 in Writ Petition (Stamp) No.96015 of 2020. He submits that the Chairman of the petitioner society who was elected by the Managing Committee has expired. The Honorary Secretary of the society has been removed in view of the "No Confidence Motion" passed by the members of the petitioner society. He submits that though by an order dated 19<sup>th</sup> May, 2021 passed by this Court, this Court has permitted the Treasurer of the petitioner society Kesav Mendan to operate bank account and to issue cheques mentioned in paragraph 5 of the order dated 20<sup>th</sup> November, i.e. in respect of monthly electricity bill and salary to the staff / employees of the society, the petitioner society is not able to carry out certain urgent works and carry out routine work and incur expenditure in ordinary course of business of the society.

4. Learned counsel for the intervenor states that though the

authority had appointed the Administrator of the society, the said order has been stayed by the Appellate Authority. He submits that he has no objection if the election of the entire managing committee of the petitioner is held immediately.

5. Learned AGP for the respondents invited our attention to the order dated 6<sup>th</sup> April, 2021 passed by the State Government postponing the election to 31<sup>st</sup> August, 2021. She submits that in view of the said order, no such election be held in respect of the post of Chairman and the Honorary Secretary or the other members of the managing committee. The term of the managing committee has already expired in the year 2020.

6. It is common ground that the term of the managing committee of the petitioner society has already expired in the year 2020. Election of the co-operative societies has been postponed by the Government order dated 6<sup>th</sup> April, 2021 till 31<sup>st</sup> August, 2021. We are thus not inclined to accept the submission of the learned counsel for the petitioner that the post of the Chairman and the Honorary Secretary be allowed to filled up by holding election by directing the managing committee members to elect them.

7. However, we are inclined to consider the statement made by the learned counsel for the petitioner that two members i.e. treasurer along with managing committee members i.e. Keshav

Mendan who are allowed to operate the bank account for managing the business purpose vide said order dated 19<sup>th</sup> May, 2021 and 20<sup>th</sup> November, 2020 be allowed to issue cheques and to incur expenses in ordinary course of business of the society. It is however, made clear that if any major expenses are required to be incurred, the existing committee members shall call special general body meeting for seeking approval of such major expenses. It is made clear that this arrangement to continue till the regular election of the managing committee of the petitioner society is held. In case of any difficulty, the parties are at liberty to apply.

8. The writ petition is disposed of in aforesaid terms. There shall be no order to costs. If the learned counsel for the intervenor has not filed the Vakalatnama, the same shall be filed within one week from today, without fail. Learned counsel for the intervenor to furnish the list of the intervenors to the office as well as to the petitioner's counsel within one week from today.

**(V.G. BISHT, J.)**

**(R.D. DHANUKA, J.)**