

Vidya Amin

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

WRIT PETITION NO. 7149 OF 2021

Valerian N. Gonsalves & Anr.

... Petitioners

V/s.

The Divisional Joint Registrar, C.S.
Konkan Bhavan & Ors.

... Respondents

Mr. Sachin P. Shetye for Petitioners.

Mrs. Vaishali Nimbalkar, AGP for State.

Mr. Shantanu Raktate with Mr. Amar D. Parsekar for Respondent
No.6.

CORAM : G.S.KULKARNI, J.

DATE : 26 October, 2021

P.C.:

1. Not on board. Upon mentioning, taken on board on a
praecipe as moved on behalf of the petitioners.

2. Heard learned counsel for the petitioners, learned AGP and
learned counsel for respondent no. 6.

3. This petition has been filed praying for the following reliefs:

"a) This Hon'ble Authority be pleased to call for
record and proceeding from respondent no. 1 in the
matter of passing the impugned order dated
17.07.2018 u/s. 73CA and consequential order dated
12.10.2021 by respondent no. 3 and on the basis of
the same, the election programme issued by
respondent no. 8 and after examining the legality,
validity and propriety thereof, the same be quashed
and set aside.

b) Pending the hearing and final disposal of the present petition, the impugned order dated 17.08.2018 passed by respondent no. 1 u/s. 73CA of the M.C.S. Act, 1960 be stayed.

b(a) Pending the hearing and final disposal of the present petition, the impugned order dated 12.10.21 passed by respondent no. 3 and the election programme for the post of Chairman dated 18.10.2021 issued by respondent no. 8 be stayed.”

4. It is not in dispute that the petitioners’ appeal against the order dated 17 September, 2017 passed under section 73CA of the Maharashtra Cooperative Societies Act, 1960 is a subject matter of pending appeal before the State Government. It is informed that the said appeal was heard and is closed for orders. In the meantime, as the election programme was notified on 18 October, 2021 whereby the election is scheduled for today, the petitioners have moved this Court for urgent relief on this petition.

5. At the outset, it is clear that a substantive appeal filed by the petitioner is pending before the State Government in which any such application could have been moved by the petitioners for seeking reliefs as prayed for in this petition. However, no attempt was made by the petitioners to move such application and the petitioners have directly moved this Court.

6. There is also a separate writ petition filed by the petitioners which is pending in this Court in which by the order dated 30 October, 2018 passed by the Hon'ble Minister dismissing the Revision Application No. 489 of 2018 and confirming the order dated 12 December, 2017 passed by the Divisional Joint Registrar on an enquiry report dated 1 March, 2018 under section 88 of the Act is also pending consideration. The order passed under section 73CA appears to be the consequence of such order.

7. In the above circumstances, no relief can be granted to the petitioners on this writ petition to interfere in the election process.

8. Writ Petition is accordingly dismissed. No costs.

(G.S.KULKARNI, J.)