

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2594 OF 2021

AHMADBHAI KARIMBHAI SHEIKH
VERSUS
STATE OF MAHARASHTRA AND ANOTHER

WITH
WRIT PETITION NO. 4096 OF 2018

AHMEDBHAI S/O KARIMBHAI SHEIKH
VERSUS
THE COLLECTOR, NAGPUR AND OTHERS

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A. M. Ghare, Advocate for petitioner.
Mrs. S. S. Jachak, AGP for respondent-State.

CORAM : A.S. CHANDURKAR AND
PUSHPA V. GANEDIWALA, JJ.

DATE : 22/09/2021.

1. Both the writ petitions can be conveniently decided by this common order.

2. Heard Shri A.M. Ghare, learned counsel for the petitioner and Mrs. S. S. Jachak, learned AGP for the respondent-State.

3. The petitioner in both the writ petitions was a Director of Agriculture Produce Market Committee, Nagpur during the period from 2012 to 2017. The tenure of the Board of Directors expired on 09/03/2017. Prior thereto on

10/01/2017, in exercise of powers under Section 14 (3) and 14(3)(A) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (for short, "the said Act"), an order extending the term of the Executive Committee of the Market Committee was granted by the Collector. This order dated 10/01/2017 was however, set aside by this Court in Writ Petition No.585/2017 and it was directed that the authorities should proceed further to conduct elections in accordance with the law. Thereafter, on 22/03/2017, the District Deputy Registrar, Nagpur in exercise of powers under Section 15A of the said Act appointed an Administrator to manage the affairs of the Market Committee. However, in view of interim orders passed in Writ Petition No.1806/2017 that order was stayed and the elected body continued in office. Various writ petitions were filed in this Court pursuant to the aforesaid development and also for challenging Ordinance No.XVII of 2017. These writ petitions including Writ Petition No.6003/2017 filed by the present petitioner came to be decided on 16/01/2018. The appointment of the Administrator was upheld and at the same time, the Collector was directed to conduct elections of the Market Committee by preparing a fresh voters' list by treating the cut off date as 31/08/2017. A review application seeking review of the aforesaid judgment came to be subsequently dismissed. It is not in dispute that by virtue of various orders passed, the time to conduct the elections of the Board of Directors of the Market Committee was extended from time to time. In the aforesaid backdrop, in Writ Petition No.4096/2018 the petitioner has prayed for a direction to the

respondents to conduct the elections to the Market Committee within the time stipulated by this Court and in the alternate, it is prayed that the appointment and subsequent continuation of the Administrator to manage the affairs of the Market Committee beyond the period prescribed by Section 15A of the said Act be declared illegal. The petitioner had on 07/01/2020 made a representation before the State Government seeking restoration of the elected members of the Executive Committee in the light of the provisions of Section 14(3) of the said Act. This request was refused by the State Government on 17/09/2020 and thereafter the petitioner filed another application seeking review of that decision. On 08/07/2021, this request was also negatived by the State Government and this communication dated 08/07/2021 is the subject matter of challenge in Writ Petition No.2594/2021. It has also been prayed that the elected members of the Executive Committee being granted extension for a period of six months as prescribed by Section 14(3) of the said Act and they be permitted to function as members of the Executive Committee.

4. The learned counsel for the petitioner submits that in the light of the provisions of Section 15A(1)(b) and proviso thereto, it was not permissible for the State Government to continue the functioning of the Administrator on the Market Committee for a period exceeding one year in aggregate. Since the period of more than one year had elapsed from the appointment of the Administrator, his continuation thereafter was illegal. As it was now not permissible for the Administrator

to continue in office, the elected members were entitled to be restored in office by virtue of the provisions of Section 14(3) of the said Act. It was urged that since the earlier extension granted to the elected body was for a period of six months, it was permissible for the elected body to be restored in office for a further period of six months so that the aggregate period would not exceed one year as provided. The rejection of this request made to the State Government by the orders dated 17/09/2020 and 08/07/2021 was without any justifiable reason and thus, liable to be set aside. In that regard, learned counsel for the petitioner has sought to rely upon the following decisions :-

- i] **2004 (3) Mh.L.J. 668**
(Shivamrut Dudh Utpadak Sahakari Sangh Maryadit and others Vrs. State of Maharashtra and others).
- ii] **2010 (4) Mh.L.J. 360**
(Babasaheb s/o Apparao Akat and others Vrs. State of Maharashtra and others).
- iii] **2021 (2) BCR 797**
(Radhakisan Deorao Pathade and others Vrs. State of Maharashtra and others).

It was thus submitted that the prayers made deserve to be granted.

5. The learned Assistant Government Pleader for the concerned respondents opposed the aforesaid submissions. She relied upon the reply filed in Writ Petition No.2594/2021 and further submitted that the District Deputy Registrar had

declared election programme for conducting the elections to the Market Committee. After publication of the final voters' list, the District Election Officer was to notify the election programme within a period of 10 days. She referred to the communication dated 14/09/2021 issued by the State Co-operative Election Authority, Pune in which it was stated that the election programme was to commence from 20/09/2021 by filing of nominations. She further submitted that the prayer for restoration of the elected body was considered by this Court earlier and that prayer came to be refused. Hence, it was submitted that no relief could be granted to the petitioner.

6. On hearing the learned counsel for the parties, we find that the prayer to restore the elected body of the Market Committee was made by the petitioner in M.C.A. (Review) No.1102/2019 and this prayer was refused by the Division Bench on 10/08/2020. It is further found that on 14/09/2021, the State Co-operative Election Authority, Pune through its Secretary has approved the election programme for conducting the elections at the Agricultural Produce Market Committee, Nagpur. As per that programme, the nomination forms were to be filled in from 20/09/2021 and on completion of entire process, the voting is scheduled on 23/10/2021. The results are likely to be declared on 24/10/2021. In the aforesaid backdrop, it is found that the prayer as made in Writ Petition No.4096/2018 seeking a declaration to conduct the elections of the Market Committee stands satisfied in the view of the communication dated 14/09/2021.

7. As regards the prayer for restoration of the elected body under Section 14(3) of the said Act is concerned we find that by the order passed in M.C.A. (Review) No.1102/2019 dated 10/08/2020 a similar prayer made by the same petitioner to restore the elected body of the Market Committee till fresh elections are held has been rejected. In the light of the fact that the election programme for holding fresh elections to the Market Committee has now been declared, we do not find it appropriate in these facts to consider the correctness of the orders dated 17/09/2020 and 08/07/2021 by which the State Government has refused to accept the prayer of the petitioner to restore the elected body. In the light of the events referred to hereinabove, we pass the following order :-

ORDER

I] Accepting the statement made on behalf of the respondent No.2 in Writ Petition No.2594/2021 that the Secretary, State Co-operative Election Authority, Pune has on 14/09/2021 sought to declare the election programme for conducting the elections of Agricultural Produce Market Committee, Nagpur it is expected that the Authorities would abide by the same and conduct the elections in accordance with the programme declared therein.

II] For the reasons stated in Paragraph No.7, we have not considered the prayers made in Writ Petition No.2594/2021 and the petitioner is free to make the said prayer if the elections are not held as per the programme as declared.

III] Both the writ petitions are disposed of. No order as to costs.

JUDGE

JUDGE

Choulwar