

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 WRIT PETITION NO. 5872 OF 2022

YASHWANT NAGARI SAHAKARI BANK LTD. THROUGH
ITS CHAIRMAN VISHNUPANT PANDHARINATH SATHE
VERSUS
SUNDARLAL RAMNIVAS DARAK AND ANOTHER

AND
938 WRIT PETITION NO. 5873 OF 2022

YASHWANT NAGARI SAHAKARI BANK LTD. THROUGH
ITS CHAIRMAN VISHNUPANT PANDHARINATH SATHE
VERSUS
SUNIL BABURAO MANE AND ANOTHER

...
Advocate for Petitioners in both WPs : Mr. Palodkar Devdatt P.
AGP for the respondent – State : Mr. K.B. Jadhavar
...

CORAM : MANGESH S. PATIL, J.

DATE : 9 JUNE 2022

PC :

Heard learned advocate Mr. Palodkar for the petitioner in both the writ petitions.

2. The petitioner is a co-operative bank assailing the order dated 24-03-2022 passed by the Maharashtra State Co-operative Appellate Court whereby its appeal challenging the order passed by the co-operative court on the applications preferred by the respondents no. 1 herein seeking temporary injunction were allowed.

3. The respondents no. 1 claiming themselves to be the directors of the petitioner - bank had filed dispute under section 91 of

the Maharashtra Co-operative Societies Act (for short "**the Act**") before the co-operative court seeking cancellation and setting aside of the resolution passed by the managing committee of the bank on 19-10-2019 removing them from the post of director.

4. Learned advocate Mr. Palodkar would submit that the lower appellate court has not considered all the aspects in the proper perspective and has decided the appeals without application of mind. It has overlooked the bye-laws and the provisions of the Act. It has also not considered that *prima facie* by obeying all the provisions of the Act and the bye-laws, the resolutions were passed removing the respondents nos. 1 from the post of directorship. There was no illegality or perversity. The resolutions were passed properly. Even the lower appellate court ignored the fact that though the disputes were filed in the year 2019, at no point of time, respondents nos.1 had taken emergent steps for interim relief. The request was suffering from delay and laches and still was considered by the co-operative court. The appellate court ought to have considered this aspect as well but has clearly ignored it.

5. Mr. Palodkar would further submit that even the tenure of the post of director is over by now and nothing remains to be decided in the disputes and those have become *infructuous*.

6. It is a matter of record that though the dispute was filed in the year 2019, applications for temporary injunction were not pressed

for urgently. However, the fact remains that the applications were filed seeking interim relief. Obviously, a judicial note can be taken of the fact that for the period *interregnum*, pandemic had occurred and that could have, in all probability, led to some delay.

7. Be that as it may, the lower appellate court has apparently considered the provisions of law while confirming the order of interim relief passed by the trial court. By no stretch of imagination, the view taken by the lower appellate court can be said to be perverse, arbitrary or capricious so that this court can step in, in exercise of writ jurisdiction.

8. Apart from the above state-of-affairs, apparently, the lower appellate court seems to be alive to the fact that the disputes needed to be decided finally at the earlier stage. It had specifically directed the trial court to decide the disputes within three months from 01-04-2022.

9. It is in view of such state-of-affairs, I do not find sufficient and cogent reasons to cause any interference. If in the meantime, the tenure is already over, the fact can certainly be brought to the notice of the trial court which is duty bound to take its cognizance.

10. Writ petitions are dismissed.

[MANGESH S. PATIL]
JUDGE

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