

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.7681 OF 2022  
(Ankush Taterao Aher Vs. The State of Maharashtra Through its  
Secretary and others)

Mr.A.N.Nagargoje h/f Mr.S.K.Chavan, Advocate for the petitioner.  
Mr.S.B.Yawalkar, AGP for respondent/State.

**CORAM : DIPANKAR DATTA, CJ. &  
RAVINDRA V. GHUGE, J.**

**DATED : JULY 22, 2022.**

**PER COURT :** (Per Ravindra V. Ghuge, J.)

The petitioner, who is a Former Chairman of the A.P.M.C.,  
has put forth prayer clauses B, C, D and E as under :-

*"B] To issue writ of certiorari or any other appropriate writ or order or directions in the like nature thereby, the impugned Order dated 18.07.2022 issued by the District Deputy Registrar, Co-op. Societies Hingoli, Dist. Hingoli, may kindly be quashed and set aside.*

*C] To issue writ of mandamus or any other appropriate writ or order or directions in the like nature thereby, the Respondent No. 1 – State may kindly be directed to take decision on Proposal for Extension of Term for Existing Board of Directors of Respondent No.4 – A.P.M.C., forwarded by the Respondent No.2 – D.D.R. C.S. Hingoli vide Communication dated 05.01.2022 addressed to the Respondent No.1, within stipulated time period, as this Hon'ble court may pleased to deem it proper.*

*D] to issue writ of mandamus or any other appropriate writ or*

*order or directions in the like nature thereby, the Respondents No.1 and 2 may kindly be directed to forthwith initiate steps for conducting elections of the Respondent No.4 – A.P.M.C. and complete the election process, within stipulated time period, as this Hon'ble court may pleased to deem it proper.*

*E] Pending hearing and final disposal of the Writ Petition, the effect, execution, operation and implementation of the impugned Order dated 18.07.2022 issued by the District Deputy Registrar, Co-op. Societies, Hingoli, Dist. Hingoli, may kindly be stayed."*

2. The petitioner concedes that after his election, the first meeting of the APMC took place on 16.07.2016 and the 5 years tenure will have to be calculated from the date of such meeting. Respondent No.1/State granted 6 months extension to all APMC's on 22.04.2021 upto 23.10.2021, considering the Covid Pandemic situation. Further extension was also granted on 30.09.2021. It is also admitted that the petitioner has enjoyed an extension period of one full year beyond his tenure of 5 years. However, the grievance is that such an extension has been granted u/s 59 of the APMC Act, 1963 and not u/s 14(3)-2nd proviso. He, therefore, canvasses that as no extension was specifically granted u/s 14 (2nd proviso), the extension granted u/s 59 is not to be taken into account.

3. The petitioner has then cited the 10 grounds formulated in the petition, which read thus :-

*"I] That, the impugned Order is perverse and unreasoned, deserves to be quashed and set aside.*

*II] That, the impugned order nowhere considered the pendency of Proposal for extension of term forwarded by the respondent No.2 by Communication dtd. 05.01.2022, hence the same is perverse and unreasoned.*

*III] That, the impugned order nowhere mentions unavoidable circumstances, facts beyond the control of the petitioner and existing Board of Directors and/or failure on the part of petitioner and existing board of Directors for not holding the elections, prior to expiry of term, hence the same is perverse and unreasoned.*

*IV] That, initially due to pandemic and now due to change in government policy postponing the elections of all co-operative societies upto 30.09.2022 as well participation of all agriculturists as voters in APMC elections, elections could not be conducted within time, particularly when existing Board of Directors have already deposited the required election expenses long back on 08.07.2021, the petitioner and existing Board of Directors cannot be held liable for delay in elections, hence appointment of Administrator without considering all these facts is certainly, unfair, unjust, improper and perverse.*

*V] That, the Respondent NO.1 ought to have consider the pending proposal for extension of term and after decision thereon decide to issue order of appointment of Administrator, if necessary.*

*VI] That, the earlier extensions granted by the State*

*Government was general in nature and the same were due to Covid Pandemic situation, norms and restrictions. The individual proposal for extension, considering change in government policy needs to be considered independently, applying independent application of mind regards particular facts of each A.P.M.C.s. Hence, the individual proposal of extension needs to be decided first, applying present situation, government policy and particular facts of case in hand.*

*VII] That, undisputedly, this Hon'ble court in W.P. No.11669/2021 by Order dtd. 18.11.2021 specifically directed first to conduct the elections of Primary Agricultural Societies and thereafter all A.P.M.Cs. Presently, elections of all V.K.S.S. societies are not held and now the Government by Order dated 15.07.2022 postponed the elections of all co-operative societies till 30.09.2022, hence presently elections of the Respondent No.4 – A.P.M.C. are not possible to be conducted forthwith as much the existing Board of Directors cannot be faulted for the same.*

*VIII] That, considering the present political scenario, groups in Shivsena Party, Change in Government, there is every likelihood of misuse of order of appointment of Administrator which would be substituted by appointing Board of Administrator, placing the favourable political beneficial person. The impugned order is issued keeping in mind this aforesaid utilization of order dtd. 18.07.2022, under colourable exercise of powers.*

*IX] The Respondent No.1 has very well power to grant extension to the term of existing Board of Directors and proposal to that respect is pending with it since 05.01.2022, hence the respondent No.1 is duty bound to take decision on the said Proposal, hence necessary directions are humbly prayed against the Respondent*

No.1.

*X] That, the impugned order is otherwise erroneous and bad in law, hence deserves to be quashed and set aside."*

4. The learned Advocate for the petitioner has relied upon **Babasaheb s/o Apparao Akat and others Vs. State of Maharashtra and others [2010(4) Mh.L.J.360]** to contend that this Court has concluded that appointment of an Administrator, straight away, is not justified in the absence of any allegations of mal-administration or misfeasance committed by the members of the Committee.

5. The learned AGP has strenuously opposed this petition contending that even if the petitioner claims that an Administrator should not be appointed and the elected body should be given an extension, he has already enjoyed the extension for a period of one year. He relies upon an order passed by the Hon'ble Supreme Court (3 Judges Bench) dated 15.03.2021 in a petition for **Special Leave to Appeal (C)-4628/2022-Dari Vivid Karyakari Sahakari Sanstha Maryadit and others Vs. State of Maharashtra and others**. It has been held that the power u/s 14(3) is a special power which deals with matters of extension of time within which the elections must be held and the power u/s 59

of the Act is quite general. This power has specified the maximum permissible limit for extension.

6. Section 14(3) - 2nd proviso thereunder, Section 15 and Section 59 of the APMC Act, read as under :-

**"Sec 14 (3) 2<sup>nd</sup> Proviso -**

*[Provided further that], where the general election of members of a Committee could not be held for reason beyond the control of the Committee before expiry of the term of office of its members as aforesaid, the State Government may, by order in the Official Gazette, extend from time to time, the term of office of any such Committee, so however, that the period for which the term of office is so extended shall not exceed the period of one year in the aggregate.]*

**15.** (1) *The term of office of members of a Market Committee shall be deemed to commence on the date of the first meeting of the Market Committee at which business is transacted :*

*6[Provided that, a person who is a member by virtue of his being a representative, or holding office, or holding licence belonging to any of the categories of members referred to in sub-section (1) or (1A) of section 13, shall hold office as such member so long only as he continues to be representatives or to hold such office or such license and on his ceasing to be such representative or holding such office or license he shall cease to be such member and he shall be deemed to have vacated his office.*

*Explanation.--For the purposes of this section, the date of the first meeting of the Market Committee at which business is transacted*

*shall be the date of the meeting called under sub-section (2) of section 22 for the election of the Chairman and Vice-Chairman.]*

*(2) .....*

*(3) The term of office of outgoing members shall be deemed to extend to, and expire with, the date immediately preceding the date of such first meeting.*

**59.** *The State Government may, by a general or special order, in the Official Gazette, exempt any Market Committee or any class of persons from any of the provisions of this Act or any rules made thereunder, or may direct that such provision shall apply to such Market Committee or to such class of persons with such modifications not affecting the substance thereof as may be specified in that order :*

*Provided that, no order to the prejudice of any Market Committee shall be passed without an opportunity being given to such Market Committee to represent its case."*

7. We find that the petitioner does not have a legal right to demand an extension beyond his tenure of 5 years. He cannot insist that he should be continued for one year and Administrator should not be appointed. Moreover, though the petitioner claims that he has enjoyed an extension of one year u/s 59, we are of the view that the Law permitting an extension for a maximum period of one year, cannot be read as one year u/s 59 and one more year under the 2nd proviso below Section 14(3).

8. In paragraph No.8 in Babasaheb (supra), this Court has held as under :-

*"8. In our opinion, in law, the approach of the appropriate authority in issuing the orders dated 14-01-2010 and 20-01-2010, therefore, cannot be sustained, in the fact situation of the present case. In the circumstances, this petition ought to succeed. We would however, leave it open to the appropriate authority to consider the course of either extending the term of the present Committee upto one year, from the date of expiry of the term which event has occurred on 11-07-2009. In the alternative, it will be open to the appropriate authority to resort to the dispensation of the Board of Administrator, of which members of the present Committee can be continued as members of that Board. The impugned decision is set aside and instead it is left open to the appropriate authority to pass orders as may be advised in accordance with law, on the proposals submitted by the petitioners dated 28-07-2009 and 14-12-2009 or to appoint the Board of Administrators, as the case may be. That be done within Ten days from today. Further, the respondents would be obliged to ensure that the election of respondent No.7 is conducted expeditiously, irrespective of the nature of further order that would be passed by the appropriate authority. It will be obligatory for the authority to ensure the election programme is notified as per the statutory requirement since the final voters list has already been published on 22-01-2010. The Government Pleader appearing for the official respondents, on instructions, stated that it will be possible to conclude the election within two months from today. This assurance is accepted."* [Emphasis supplied]

9. In **Dari Vividh Karyakari Sahakari Sanstha** (supra), the Hon'ble Supreme Court held as under :-

*"One of the points which has come up for our consideration is whether having exhausted the time limit which is permissible and allowable under the second proviso to Section 14(3), whether power can still be exercised under Section 59 of the Act. The expression used in the second proviso to Section 14(3) is quite clear and it stipulates "where the general election of members of a Committee could not be held for reason beyond the control of the Committee before expiry of the term of office of its members as aforesaid, the State Government may, by order in the Official Gazette, extend from time to time, the term of office of any such Committee, so however, that the period for which the term of office is so extended shall not exceed the period of one year in the aggregate." (emphasis added)*

*As against the power under Section 14(3) which is special and deals with the matter of extension of time within which the elections must be held, the power under Section 59 of the Act is quite general. This special power has specified the maximum permissible limit for extension. The maximum permissible period of extension having been exhausted in the instant case, there could be no further extension by taking resort to Section 59 of the Act."*

10. It is, therefore, clear that the Hon'ble Supreme Court has concluded that one year extension under the 2nd proviso to Section 14(3) and one more year of extension u/s 59 of the Act, in addition, would not be permissible. The maximum permissible

period of extension is for a period of one year. In the said case, since the extension was granted under the 2nd proviso to Section 14(3), the Hon'ble Supreme Court refused a further extension by taking recourse to Section 59. In the case before us, the petitioner has already enjoyed the extension of one year u/s 59 and, therefore, he cannot claim an additional extension of one year under the 2nd proviso to Section 14(3).

11. This petition, being devoid of merit, is therefore, dismissed.

**[ RAVINDRA V. GHUGE, J. ]**

**[ CHIEF JUSTICE ]**