

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO.4616 OF 2022

KAPIL BABASAHEB AKAT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Advocate for the Petitioner : Mr. A. A. Nimbalkar h/f Mr. K. T. Taur
AGP for Respondent Nos.1 to 3 : Mr. S. G. Karlekar
Advocate for Respondent No.4 : Mr. V. H. Dighe
Advocate for Respondent No.5 : Mr. V. A. Bagal
Intervenor Advocate : Mr. M. S. Karad

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WITH

**CIVIL APPLICATION NO.11882 OF 2022
IN WP/4616/2022**

.....

**CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.**

DATE : 08th September, 2022

PER COURT :

1. The petitioner before us has put forth prayer Clauses 'B', 'C' and 'D' as under :-

(B) By issuing appropriate writ or direction in the like in nature, the impugned order dated 22.04.2022 issued by Resp.No.2 may kindly be quashed and set aside.

(C) By issuing appropriate writ or direction in the like in

nature, the Resp. Nos.1 and 2 may kindly be directed to decide the proposal submitted by APMC Partur dated 06.04.2022 (08.04.2022) thereby to grant extension to the managing committee of the APMC Partur.

(D) Pending hearing and final disposal of this Writ Petition, to execution and implementation of the impugned order dated 22.04.2022 issued by Resp. No.2 may kindly be stayed in the interest of justice.

2. Pursuant to the above, this Court passed an order on 25/04/2022, as under :-

" . Mr. Taur, learned counsel for the petitioner on instructions seeks liberty to delete respondent Nos. 6 to 22 from the cause title of the petition as such no reliefs are sought against them and they are formal respondents.

2. Leave to amend is granted. Amendment be carried out within one week from today.

3. The learned counsel for the petitioner on instructions states that one year extension granted to the existing managing committee members of the APMC- respondent No. 5 committee would expire on 07.07.2022 and does not propose to seek any further extension. Statement is accepted.

4. The statement made by the learned counsel for the

petitioner is based on the communication dated 19.04.2022 annexed at Exhibit-H to the petition and considering the judgment of the Hon'ble Supreme Court in SLP to Appeal (C) No. 4628 of 2022 referred to in the said order dated 19.04.2022.

5. The learned counsel for APMC on instructions states that the administrator appointed by the State Government has not taken charge in respect of the affairs of the managing committee of APMC. Statement is accepted.

6. In view of the statement made by the learned counsel for the petitioner and by the learned counsel for APMC, we are accepting the request made by the learned A.G.P. for the State to take instructions and to file affidavit in reply. Affidavit in reply shall be filed on or before 02.05.2022.

7. Place the matter on board on 04.05.2022.

8. Till the next date, there shall be ad interim relief in terms of prayer clause (D).

9. The learned A.G.P. shall convey this order to the respondents not to implement the impugned notice for taking charge.

10. Parties to act upon the authenticate copy of this order."

3. There is a controversy between the parties as to whether the

Assistant Registrar, Cooperative Societies, Partur, had taken charge as an Administrative pursuant to the order dated 22/04/2022. The learned AGP submits on the basis of the record that the Assistant Registrar, Mr. Pranav Waghmare, had taken charge before this Court passed the order on 25/04/2022.

4. It is undisputed that the first meeting of the newly elected body was held on 08/07/2016 and its five years term concluded on 07/07/2021. By a general order passed by the Government, one year extension was granted which also expired on 07/07/2022.

5. The Government had appointed the Administrator on 22/04/2022 prior to the expiry of the one year extension granted to several APMC, including the petitioner, by a general order of the State Government.

6. The learned Advocate for the petitioner submits that he would not canvass that he has a right to continue even beyond the extended period. His grievance is, that a Government Officer be appointed as an Administrator. The learned AGP submits that the impugned order, in fact, paved way for the appointment of the

Assistant Registrar who is a Government Officer. Now that the extended tenure of the Committee has expired on 07/07/2022, he would take charge.

7. The parties are agreeable. In view of the same, the petition is disposed off.

8. Needless to state, considering Section 15-A (1) (a) and Section 26 of the APMC Act, the Secretary shall hand over charge to the Assistant Registrar, who has been appointed as an Administrator, on 12/09/2022 at 10.00 a.m.

9. The pending Civil Application would not survive and stands disposed off.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

gawade/-.