

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 CIVIL APPLICATION NO.13713 OF 2022 IN WP/13093/2021

THE STATE CO-OPERATIVE ELECTION AUTHORITY
THROUGH ITS SECRETARY
VERSUS
PUJABRAO SOPNARAO SHINDE AND OTHERS

WITH

CA/13736/2022 IN WP/12193/2021
CA/13714/2022 IN WP/12041/2021
CA/13716/2022 IN WP/12397/2021
CA/13718/2022 IN WP/12050/2021
CA/13720/2022 IN WP/11787/2021
CA/13724/2022 IN WP/12471/2021
CA/13725/2022 IN WP/11669/2021
CA/13727/2022 IN WP/12486/2021
CA/13734/2022 IN WP/11679/2021
CA/13735/2022 IN WP/12178/2021
CA/13738/2022 IN WP/12666/2021
CA/13739/2022 IN WP/11680/2021
CA/13743/2022 IN WP/13182/2021
CA/13744/2022 IN WP/12040/2021
CA/13745/2022 IN WP/11681/2021
CA/13746/2022 IN WP/11688/2021
CA/13748/2022 IN WP/11682/2021

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Advocate for applicant : Mr. Dighe Vithal H. (CA/13713/2022, CA/13736/2022, CA/13714/2022, CA/13716/2022, CA/13734/2022, CA/13738/2022, CA/13739/2022, CA/13743/2022, CA/13744/2022, CA/13746/2022)

Advocate for applicant : Mr. S.K. Kadam (CA/13718/2022, CA/13720/2022, CA/13724/2022, CA/13725/2022, CA/13727/2022, CA/13735/2022, CA/13745/2022, CA/13748/022)

Advocate for respondent no. 6 in WP/12193/2021, WP/11681/2021 : Mr. M.P. Tripathi

Advocate for petitioner in WP/12050/2021 : Mr V.R. Dhorde

Advocate for respondent no. 13 in WP/12050/2021 : Mr P.S. Dighe

Advocate for petitioner in WP/11787/2021, WP/11669/2021, WP/11679/2021, WP/11680/2021, WP/11688/2021 : Mr. S.S. Thombre

Advocate for petitioner in WP/12486/2021 : Mr. L.H. Kawale

Advocate for Respondents nos. 1 and 2 in all CAs : Mr. Rajendra Deshmukh, Senior Advocate (Special Counsel for State) i/b. Mr. D.R. Kale, G.P.

Advocate for respondent – original writ petitioner – Mr. S.B. Ghatol Patil

Advocate for petitioner in WP/12193/2021 : Mr. K.J. Ghute Patil

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**CORAM : MANGESH S. PATIL &
Y. G. KHOBRADE, JJ.**

DATE : 30 NOVEMBER 2022

PC :

We have heard the learned advocates appearing for the State Co-operative Election Authority, learned Senior Advocate Mr. Deshmukh representing the State as a Special Counsel and Mr. Ghute Patil who appears for the petitioner in writ petition no. 12193 of 2021.

2. By way of these civil applications filed by the State Co-operative Election Authority, it is seeking extension of time, by six months from the date of the applications i.e. 19-09-2022.

3. Mr. Dighe and Mr. Kadam submitted that, out of 18000 and about societies, elections have been held in respect of 13913 societies and pursuant thereto, even the elections of some of the Agricultural Produce Market Committees (**APMCs**) have been conducted as per the directions of this Court in a common order dated 18-11-2021 in writ petition no. 11669 of 2021. They submit that in spite of their strenuous efforts, the authority could not conduct the elections in respect of all the primary co-operative credit societies and multi-purpose co-operative societies. In about 1759 such societies, the elections have remained to be conducted. The elections of the local bodies are likely to be conducted in the month of December 2022 and even the elections of

APMC are already starting from 23-12-2022, as per the tentative program declared on 06-09-2022. It is also submitted that even the State Cabinet in its meeting dated 14-07-2022 had resolved to include the farmers holding 10 Are land were to be given voting rights in the APMC elections by incorporating an amendment in the APMC (Development and Regulation) Act, 1963. For all these reasons, they were unable to obey the orders of this Court to conduct the elections within the stipulated time and even the extended time granted by this Court.

4. In addition, the learned advocates Mr. Dighe and Mr. Kadam submit that subsequently, the Government has dropped the proposal for incorporating an amendment in the APMC Act as far as granting of voting rights to the farmers holding minimum of 10 Are land. They submit that subsequently, the State Government has now decided to make all the farmers eligible to contest the elections of the APMC by a separate ordinance. The elections of the Gram Panchayat have also been declared and the process is already under way. Considering the fact that the Gram Panchayat members are the voters at the election for electing the managing committee of an APMC, it would be appropriate that the remaining elections are conducted after such elections of the local body / Gram Panchayat are concluded.

5. The learned Senior Advocate Mr. Deshmukh concurs with the submissions made by Mr. Kadam and Mr. Dighe. He places on record the Maharashtra Ordinance No. 11 of 2022 dated 22-11-2022 to demonstrate that all the farmers would be eligible to contest the elections of the APMC. Mr. Deshmukh would further point out the fact that the elections of the Co-operative Societies are to be held in view of the directions of this Court. Also the Supreme Court has directed to hold elections of Gram Panchayat which are being conducted. By subsequent Government decision dated 29-11-2022, excluding the Co-operative societies in respect of which there are directions of the High Court or the Supreme Court, the elections have been postponed. He would, therefore, submit that the request to extend the time made by the authority may be considered favourably.

6. Learned advocate Mr. Ghute Patil submits that though the submissions of the learned advocates may not be factually incorrect, the State Co-operative Election Authority has not been acting in a fair manner. Even when the elections of all the primary societies were concluded under the Ambajogai APMC as well as Dharur APMC, it conducted the elections only in respect of Dharur APMC but did not take any such steps in respect of Ambajogai APMC. He would submit that there was no sufficient and cogent reason for the authority to indulge in such discrimination. It has clearly flouted the directions of

this Court to conduct the elections of the APMC wherever the elections of the primary societies were over.

7. We have carefully considered the rival submissions and perused the papers.

8. As far as the reasons which the State Co-operative Election Authority is giving in all these applications, there is no dispute about the facts or the grounds. In addition, it is also being pointed out that subsequently, the elections of the Gram Panchayat are being held. Gram Panchayat members constitute a franchise for electing the managing committees of APMCs. Simultaneously, elections are being conducted in respect of all the Co-operative Societies as well as the Gram Panchayat. It is in the light of such eventuality, even the Government has postponed the elections in respect of such societies where there is no order either of this Court or the Supreme Court, for the reasons indicated therein.

9. There is one more aspect. The State Government has now resolved to make all the farmers eligible to contest the post for managing committees of APMCs. Consequently, since the ordinance though signed by the Governor is still to be published, this would be an additional reason to extend the time as prayed for.

10. It is in view of such facts and circumstances, in our considered view, when the members of the Gram Panchayat also form the franchise of the APMC when the elections of the Gram Panchayat are also in process, it would be appropriate that the time is extended by a reasonable period.

11. Needless to state that we are not going into the aspect being argued by advocate Mr. Ghute in respect of Ambajogai APMC. Whether the authority should have conducted elections of Ambajogai APMC or were there sufficient grounds, whether it has intentionally or for some other reasons, did not obey the directions of this Court in respect of that APMC, are the matters which need not be considered at this juncture. It would always be open for the petitioner therein to take out appropriate proceedings if he is of the view that the State Co-operative Election Authority is in contempt.

12. For all these reasons, we extend the time till 15 March 2023.

13. All civil applications are disposed of.

[Y. G. KHOBRADE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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