

Sonali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 564 OF 2022
IN
WRIT PETITION NO. 1118 OF 2022

Prakash Shripad Shahapurkar & Ors	...Applicants
<i>Versus</i>	
State of Maharashtra & Ors	...Respondents

Mr PK Dhakephalkar, Senior Advocate, i/b Surel Shah, for the
Applicants/Petitioners.
Mr Shriniwas Patwardhan, i/b Bhooshan R Mandlik, for Respondent.
Mr PG Sawant, AGP, for Respondent-State.

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 23rd February 2022

PC:-

1. This is an Interim Application that seeks recall of our 4th February 2022 order. The order is quoted below:

“1. The Petition can be disposed of with a limited direction and request.

2. The Petitioner has filed a Revision which lies to the Hon’ble Minister, Department of Cooperation. It is directed against a notice dated 27th January 2022 issued by the Regional Joint Director (Sugar) Kolhapur Division.

That notice was issued under Section 77-A of the Maharashtra Cooperative Societies Act, 1960.

3. To put it briefly, the notice contended that there is a deadlock in the management and working of the 3rd Respondent, the Appasaheb Nalawade Gadhinglaj Taluka Sahakari Sakhar Kharkhana, resulting in an alleged vacuum in management.

4. The Petitioner's Revision was filed on 31st January 2022 or 1st February 2022.

5. The first part of this order is, thus, a request to the Hon'ble Minister to take up the Revision at his earliest convenience. We say nothing more in this regard. We decline to specify a time frame.

6. The second part of this order is a direction to the 2nd Respondent to refrain from appointing an administrator of the 3rd Respondent Sakhar Karkhana until the Hon'ble Minister has decided the Revision. The reason for us so directing is that Revision before the Minister should not be rendered entirely nugatory or otiose on account of the appointment of an administrator.

7. In the event the Petitioners do not succeed in the Revision, the 2nd Respondent will stay his hands in the matter of appointment of an administrator for a period of one week after the order of the Minister is served on the Petitioners or their Advocates.

8. The Petition is disposed of in these terms. No costs.

9. We clarify that we have not expressed opinions on the merits of the controversy between the parties."

2. Mr Dhakephalkar for the Applicants points out that the Petitioners did not inform the Court that on 3rd February 2022, a Board of Administrators had been appointed of the Appasaheb

Nalawade Gadhinglaj Taluka Sahakari Sakhar Karkhana Ltd. Mr Patwardhan for the Petitioners says that this order was never communicated to the Petitioners before the Court's order of 4th February 2022.

3. Mr Dhakephalkar points out that at 11.30 am on 4th February 2022 itself the Board of Administrators, all three serving officers of the State Government had only formally taken charge. But they had not formally taken possession. Mr Dhakephalkar also points out that in the meantime, the Petitioners and others who are supporting them have been running the Sakhar Karkhana on their own, including entering into contracts etc.

4. We believe this is an unviable position. Admittedly, the Petitioners have a Revision that is pending before the Hon'ble Minister. Our intention in our 4th February 2022 order was not that the Revision be rendered infructuous by effectively making the Petition absolute and allowing the Petitioners to run the Karkhana in the meantime on their own. It is true that, for whatever reason, we were not informed of the 3rd February 2022 order appointing the Board of Administrators.

5. Having regard to this situation, we believe it is necessary to keep parties in a *status quo ante*, i.e., a position that is neutral and can be effectively supervised and monitored by this Court, and altered as future circumstances may require. All three members of the Board of Administrators are serving government officers and are therefore amenable to our writ jurisdiction.

6. Resultantly, we restore the Petition to file keeping all contentions open. We allow the present Applicants, without need of a formal application to be intervenors at further stages in the Petition. The Board of Administrators will assume operational charge of the Sakhar Karkhana with effect from tomorrow, and will take possession of the necessary documents. The Board will run this Sakhar Karkhana in the routine course, but without taking any major policy decisions, until further orders of the Hon'ble Minister in the Revision.

7. We have no option now that to request the Hon'ble Minister to give the matter his most urgent attention. In fairness, we note that the Hon'ble Minister did list the matter before him recently. One or the other side sought an adjournment. We make it clear that we do not permit the parties to seek further adjournments before the Hon'ble Minister. It would be appropriate, in our view, if a decision could be rendered on the Revision by the Hon'ble Minister by the end of March 2022. If the decision in the Revision is in favour of the Petitioners, in view of the fact we are restoring this Petition to file on this application, the Board of Administrators will continue for a period of one week thereafter. If the Revision is decided against the Petitioners, they will have the liberty to mention the matter for an urgent listing.

8. We also request the Hon'ble Minister to take up the Petitioners' Appeal against the order appointing the Board of Administrators along with the Revision.

9. Further, in both the Revision and Appeal, the Hon'ble Minister is requested to allow the present Applicants (represented by Mr Dhakephalkar) to be heard.

10. The IA is disposed of in these terms. There will be no order as to costs.

11. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)