

**.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 1695 OF 2021

Santosh S/o Ramrao Tale

-- Petitioner

Vs.

The State of Maharashtra and others

-- Respondents

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.M.Ghare, Advocate for Petitioner

Mr. K.L. Dharmadhikari, AGP for Respondent Nos.1 to 3

Mr. U.J. Deshpande, Advocate for Respondent No.4

CORAM : MANISH PITALE, J.

DATE : 26th APRIL, 2022

By this writ petition, the petitioner / ex-chairman of the Agricultural Produce Market Committee, Khamgaon (hereinafter referred to as APMC), has challenged order dated 18/12/2020, passed by the Divisional Joint Registrar of Co-operative Societies at Amravati, whereby resolutions passed by the APMC in meetings held on 24/07/2020 and 27/07/2020, have been set aside. According to the petitioner, the said order is in the teeth of the provisions of the The Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 and Rules framed thereunder, as also the model bye laws with which the APMC is concerned.

2. Mr. A.M. Ghare, learned counsel appearing for the petitioner contends that there are factual errors made in the impugned order passed by respondent No.2 and that therefore, the impugned order deserves to be set aside. It is submitted that according to the petitioner, the meeting held on 24/07/2020, was an adjourned meeting and, therefore, even on an application of model bye laws, the question of quorum was irrelevant. It was further submitted that the meeting held on 27/07/2020, was also an adjourned meeting and hence, the same logic was applicable, which the respondent No.2 failed to appreciate. It is further submitted that the background facts were not appreciated in the correct perspective while passing the impugned order. It was submitted that the respondent No.2 proceeded on the basis that resignations of three members of the Executive Committee of the APMC had come into effect, despite the fact that in terms of the provisions of the aforesaid Act and Rules, the resignations were yet to be accepted by the Chairman of the APMC. It was submitted that appointment of an Administrator subsequent to expiry of the term of the body on 23/07/2020, was irrelevant in the facts and circumstances of the present case. It was emphasized that all the resolutions that stood set aside by the impugned order pertained to important decisions of the APMC, in the interest of the functioning of the APMC and the employees working

in the APMC. On this basis, it was submitted that the impugned order deserved to be set aside.

3. On the other hand, Mr. U.J. Deshpande, learned counsel appearing for respondent No.4 submitted that in the first place the term of the elected body was already over on 23/07/2020, while the meetings were held thereafter on 24/07/2020 and 27/07/2020, thereby indicating that on this short ground itself, the writ petition deserved to be dismissed. It was further submitted that merely because an application had been made for extension of the term, upon which no effective order was passed by the concerned authority, it could not be said that meetings could have been validly held on 27/04/2020 and 27/04/2020. As regards the quorum in terms of model bye laws, it was submitted that even if the aspect of resignations of three members of the APMC was to be ignored, the quorum for the meeting was minimum of seven persons, while as a matter of fact only four persons attended the said meeting, thereby showing that there was no quorum. It was submitted that the theory regarding adjourned meetings was without any substance for the reason that the earlier meeting of which reference was made was dated 13/07/2020 and even as per the model bye laws, the adjourned meetings ought to have been conducted within three days of the originally fixed meeting. It was submitted that reliance placed on some interim orders passed by this

Court in the pending writ petitions would not enure to the benefit of the petitioner in the present case.

4. Mr. K.L. Dharmadhikari, learned Assistant Government Pleader appeared on behalf of respondent Nos.1 to 3.

5. This Court has considered the impugned order. The reasons stated in the impugned order while setting aside the resolutions passed in the meetings dated 24/07/2020 and 27/07/2020, is that there was no quorum on the dates when the meetings were conducted. The material on record also indicates that while the meetings were conducted on 24/04/2020 and 27/04/2020, the term of the office of the elected body was already over on 23/07/2020. It is an undisputed position that an Administrator also came to be appointed on 07/09/2020.

6. This Court has perused the model bye laws, particularly the bye laws pertaining to quorum for holding meetings. It is specifically stated therein that quorum for holding meetings shall be at least seven members and if the requisite quorum is not available, the meeting would be adjourned and thereafter, on the third day of the originally slated meeting, the adjourned meeting could be taken, wherein the question of quorum would become irrelevant.

7. In the present case, it is claimed that the initial meeting was conducted on 13/07/2020 and thereafter it was adjourned. It is then claimed on behalf of the petitioner that certain interim orders were passed by the District Deputy Registrar of Co-operative Societies, which hampered the conducting of meetings. These interim orders were stayed by this Court by passing order dated 20/07/2020, in LD-VC-CW No.501 of 2020. But, even if the said contention is to be taken into account and it is presumed that the effect of stay granted by the respondent No.3 - Deputy Registrar remained suspended due to the aforesaid interim order passed by this Court, the adjourned meetings ought to have been held on the third day thereafter. Even applying the said time line, it becomes evident that the meetings held on 24/07/2020 and 27/07/2020, were beyond the period stated in the model bye laws, thereby indicating that the mandatory requirements for quorum had not become irrelevant when the meetings were actually held. Therefore, no fault can be found with the reasoning adopted by the respondent No.2, while passing the impugned order.

8. Even otherwise, the material on record sufficiently demonstrates that the term of the Body was already over on 23/07/2020, while the meetings were held thereafter on 24/07/2020 and 27/07/2020. The petitioner is not justified in relying upon order dated 28/07/2020, passed by the Division Bench of this Court in LD-VC-CW No.543

of 2020, wherein while disposing of the aforesaid writ petition, concerning the question of extension of term of the elected body, this Court had observed that till a suitable decision is taken by the concerned authority, the committee would continue in office in accordance with law. The said observation was emphasized upon by the learned counsel for the petitioner, to contend that the elected body effectively continued in office beyond 23/07/2020. This Court is not in agreement with the aforesaid contention for the reason that the Division Bench of this Court specifically observed that the committee would continue in office “in accordance with law”. The petitioner was unable to demonstrate before this Court, as to under which provisions of the aforesaid Act and Rules could it be said that in the absence of an order granting extension of term and in the face of the admitted position that the term of the elected body was over on 23/07/2020, it could be said that the committee continued in office beyond the said day. Therefore, it becomes clear that viewed from any angle the impugned order passed by respondent No.2 does not deserve any interference.

9. In view of the above, the writ petition is found to be without any merit and accordingly, it is dismissed.

JUDGE