

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 WRIT PETITION NO.2208 OF 2023

BALAJI GANPATRAO KSHIRSAGAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY AND OTHERS

Advocate for Petitioner : Mr Yuvraj Vijayrao Kakde
AGP for Respondents/State : Mrs M.A. Deshpande
Advocate for Respondent Nos. 2 and 3 : Mr V.H. Dighe

**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 02-03-2023

PER COURT :

1. The petitioner claims to be a valid voter of respondent No 5/The Agricultural Market Produce Committee having been elected from a primary Credit Co-operative Society. He is questioning legality and propriety of the order dated 08-02-2023 issued by the respondent No.2/State Co-operative Election Authority whereby a fresh programme for finalization of voters list has been published which is to be completed between 10-02-2023 and 20-03-2023.

2. The learned advocate for the petitioner submits that already a similar programme was published by the respondent No.2 and pursuant thereto, the respondent No.3, who is the District Election Officer and District Deputy Registrar of Co-operative Societies had also issued notification and there was no reason and occasion for the respondent No. 2 to take initiative and revise the programme. The learned advocate would submit that pursuant to the directions of this Court (Nagpur Bench in

Writ Petition No.3613 of 2022 dated 05-01-2022), the elections of all the APMCs are supposed to be concluded by 30 April 2023. Considering the fresh programme published by the respondent No.2 and taking into account the further time required to comply with the other formalities, since the final voters list would be published on 20 March 2023, the elections would not possibly be concluded within time stipulated by this Court.

3. It does appear that this Court has directed the respondents to conclude the elections of all the APMCs across the State by 30 April 2023. It also appears that already pursuant to the directions of the respondent No.2 stipulating the cut off date for finalization of the voters list as 01-09-2022, the respondent No. 3 had published a programme which now will stand superseded by virtue of the order dated 08-02-2023.

4. As pointed out by the learned advocate Mr V.H. Dighe for the respondent No.2, the impugned order shifting the cut off date to a future date has been taken consciously as much as elections of 9525 village panchayats and 1132 primary co-operative societies which in turn would constitute the franchisee for the elections of APMCs have been concluded after the earlier cut off date i.e. 01-09-2022. To enable the candidates who have been elected after the previous cut off date in respect of number of panchayats and primary societies, the decision was taken to postpone the programme and would now enable the successful candidates who would be valid voters to take part in the elections else, even the persons who were not so successful in the elections after 01-09-2022 would continue to have the right to cast votes. To obviate, such awkward situation, the

decision has been taken in the broader interest. There are no allegations about the decision having been prompted by some ulterior motive or is prompted by same *mala fides*.

5. This Court has inherent limitation. Over and above, the above mentioned facts, in our considered view justify the decision of the respondent No.2 to modify the election programme. There is no arbitrariness.

6. The writ petition is dismissed.

[S.G. CHAPALGAONKAR, J.]

[MANGESH S. PATIL, J.]

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