

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 WRIT PETITION NO.7455 OF 2023

SHAHAJI SAHEBRAO DESAI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS

...

Advocate for Petitioners : Senior Advocate Mr. V. D. Hon h/f Mr. A. V.
Hon

GP for Respondents-State : Mr. D. R. Kale
Advocate for Respondents No.2 to 4 : Mr. S. K. Kadam
Advocate for Intervenor : Mr. B. N. Magar Patil

...

AND

955 WRIT PETITION NO.7469 OF 2023

DHONDIRAM BALASAHEB PARDIKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THR SECRETARY MUMBAI AND OTHERS

...

Advocate for Petitioners : Mr. Suryawanshi Kamlakar J.
GP for Respondents-State : Mr. D. R. Kale
Advocate for Respondents No.2 to 4 : Mr. S. K. Kadam
Senior Advocate For Intervenor : Mr. V. R. Dhorde

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**CORAM : MANGESH S. PATIL &
SHAILESH P.BRAHME, JJ.**

DATE : 05.07.2023.

PER COURT :

Heard the learned Senior Advocate Mr. A. V. Hon for the
petitioners, learned Advocate Mr. K. J. Suryawanshi for petitioners,
learned Government Pleader Mr. D. R. Kale, learned Advocate Mr. S. K.
Kadam for respondent Nos.2 to 4, learned Senior Advocate Mr. V. R.

Dhorde for the intervenor and also Mr. B. N. Magar Patil for another intervenor.

2. The petitioner society is before us aggrieved by the Government decision dated 28/06/2023 purportedly in exercise of the powers under Section 73 CC read with Section 157 of the Maharashtra Co-operative Societies Act, postponing the elections of 6510 Co-operative Societies across the State due to the ongoing rainy season, to a future date i.e. 30/09/2023.

3. It is necessary to note that the election program was published long back and the voting is to take place on 09/07/2023. It is, therefore, significant that the election program has reached an advanced stage. In similar set of facts, barring the fact that a similarly placed Society / factory was before us in Writ Petition No.7255 of 2023, wherein the voting was to take place on 02/07/2023, after hearing all, by a detailed order, we had allowed the petitions and we directed the election to go on as was scheduled.

4. The learned Government Pleader as also learned Advocate Mr. S. K. Kadam would strenuously submit that the situation in the matter before us last time was different. The impugned order was passed on 28th and immediately the petitioner had approached this Court and the Court has passed the order on 30th. In the matter in

hand, already six to seven days are over since the order was promulgated. By passage of such time, the candidates have lost an opportunity to resort to canvassing. Rains have started and it would be in the interest of everybody, the candidates, the voters and the machinery, to wait for the time being pursuant to the impugned order till 30/09/2023.

5. The learned Advocate Mr. S. K. Kadam would further submit that due to the practical difficulties, the Returning Officer, even if he is directed to go ahead with elections, will need some time to make necessary arrangement, and if the Court considers it fit to allow the petition, he may be granted some time to complete the election process by rescheduling it.

6. The Senior Advocate Mr. Dhorde and learned Advocate Mr. Magar for the intervenors would submit that the order has been passed in a larger interest of all the votes across the State. There are no mala fides. If there are rains, even the individual voters who spread across three districts and five talukas, would find it difficult to cast vote. No prejudice would be caused to anybody simply by postponing the elections till the end of the Monsoon.

7. We do not intend to repeat the grounds which we resorted to while setting aside the impugned order qua the petitioner in Writ

Petition No7255 of 2023 and connected matters. Barring the date on which that petitioner had approached us and the date of actual voting, there is no material difference. Unlike these petitioners who had approached this Court within a day or two of passing of the impugned order, the present petitioner has approached us by filing this petition on 03/07/2023 and the voting is to take place on 09/07/2023. In our consider view, there is no discernible difference in the fact situation.

8. The stand of the Returning Officer that it would be difficult for him to right now go ahead with the same program, cannot be countenanced. It is the matter of election process and nothing happens in a day or two. He must have undertaken the preparation till he was in receipt of the impugned order. Only five to six days have lapsed since thereafter. We do not fore see any difficulties being faced by him in going ahead with the election program wherein the voting is to take place on 09/07/2023.

9. The writ petition is allowed.

10. The parties to act upon an authenticated copy of this order.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)