



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11244 OF 2023

Sahebrao Mothabhau Desale & Ors. ...Petitioners
V/s.
The State of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 10454 OF 2023

Akash Manohar Bhamare & Anr. ...Petitioners
V/s.
The State of Maharashtra & Ors. ...Respondents

Mr. Nitin V. Gaware Patil a/w. Mr. V.S. Tadake for Petitioners in WP/11244/2023.
Mr. Vijay D. Patil a/w. Mr. Kalpes Patil for Petitioner in WP/10454/2023.
Mr. N. C. Walimbe, AGP for Respondent State.
Mr. A. R. Kapadnis for Respondent No.6 in WP/11244/2023 & for Respondent No.7 in WP/10454/2023.
Mr. M. B. Gawade for Respondent No.
Mr. V. S. Tadake for Respondent No. 8 in WP/10454/2023.
Mr. Deelip Patil Bankar, Chief Standing Counsel SCEA a/w. Ms. Pooja Deelip Patil, for Respondent No.5 in WP/11244/2023 & for Respondent Nos. 5 & 6 in WP/10454/2023.
Mr. M. B. Gawade for Respondent Nos.10 to 25 in WP/10454/2023.

CORAM : SUNIL B. SHUKRE, AND
FIRDOSH P. POONIWALLA, J.J.
DATE : 14th SEPTEMBER 2023

PC.

WRIT PETITION NO.11244 OF 2023

1. By this Petition the Petitioners are seeking a declaration that the order dated 4th August 2023 passed by the State of Maharashtra in terms of section 14(3) of Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 to the extent of curtailing the

extension granted in favor of the Respondent No.6- Agricultural Produce Market Committee (“APMC”), ‘till the newly constituted managing committee assumes office’ is illegal. However a contrary claim was earlier made in Civil Writ Petition No.10454 of 2023 filed by one Akash Manohar Bhamare & Anr., in which this Court passed a detailed order on 29th August 2023 granting interim relief in favor of the Petitioner by staying the order dated 4th August 2023. The effect of such stay granted in the connected matter was that the elections to the APMC were required to be held as early as possible and not after the expiry of the extended period of six months i.e, 3rd February 2024, which date has been wrongly stated to be 3rd February 2023 in paragraph No.3 of the order dated 29th August 2023 in Writ Petition No10454/2023 which shall now be corrected as “*3rd February 2024*” by making appropriate corrections in paragraph No.3 of the said Order. By the said order, this Court has also made it clear that Respondent No.6 therein, that is the District Election Officer would be at liberty to go ahead with the election program, already published, as it is or by rescheduling it, if it found it necessary to do so.

3. Pursuant to the interim relief so granted and the clarification given in the order dated 29th August 2023, the District Election Officer i.e. who is the District Deputy Registrar, Co-operative Society, Nashik, has now published an Election Program by his notification dated 4th September 2023. This notification comes out with a rescheduled program. As per the

rescheduled program nomination papers were to be filed between the period from 5th September 2023 to 11th September 2023. The date of publication for acceptance of nomination papers was 13th September 2023 and the period given for withdrawal of the nominations is from 13th September 2023 to 27th September 2023. The rescheduled program gives further dates and provides for the date of 9th October 2023 as the date when the election results would be declared. This election program is taken on record and marked as document “A” for identification.

4. The above referred election program would thus show that now the election process has already started and once the election process is started, the settled principal of law would place an embargo on the writ power of this Court under Article 226 of the Constitution of India to make any interference in the election process.

5. By this Petition, that part of the order dated 4th August 2023 which permits the APMC, which is Respondent No.6 in this Petition, to continue to be in office till the expiry of its extended term which occurs on 3rd February 2024 is sought to be enforced. In other words, this Petition seeks to prevent the elections from taking place till 3rd February 2024. But, now the election process has already started and, therefore, as per settled principal of law, such a relief as prayed for in this Petition cannot be granted.

6. Mr. Gaware learned Counsel for the Petitioner submits that election process in the present case had been started following the interim direction given by this Court and the basis of the interim direction being wrong, the basis of the election process would also be wrong and therefore, this Petition would not be governed by what is considered to be the settled position of law.

7. We respectfully disagree with the proposition put forward by learned Counsel for the Petitioner. The election process which has been started in the present case is in consonance with the democratic principles and also it achieves the object for which a managing committee, whose term has expired, is permitted to remain in power.

8. The purpose for which term of a managing committee is extended after its original term of election has expired, is only to ensure that there is no vacuum created in managing the affairs of an Agricultural Produce Committee and by way of an interim arrangement, the earlier managing committee is called upon to manage the affairs of such a committee till the time duly elected new managing committee takes over the charge from it. Thus, the extension of the term of the earlier managing committee is only a stop gap arrangement and it serves administrative interest of the managing committee. Therefore, such a managing committee enjoying an extended term would not have any inherent right in it to continue in office. In fact, any managing committee whose elected

term is over acquires no right in law to continue at the helm of affairs and when it is permitted to remain in power, it is only because of the administrative needs of the APMC and it is done for achieving a limited purpose of protecting the interest of an Agricultural Produce Market Committee for a temporary period of time. Therefore, we are of the view that if any interim relief as prayed for in this Petition or any final relief as prayed for in this Petition is granted, it would go against the object sought to be achieved by extending the term of the earlier committee and also against the democratic principles, which require that the local elected bodies and elected bodies like AMCS are governed by duly elected bodies and not by the bodies whose term of election has already expired and which are surviving on the props provided by the government for a limited purpose.

9. In this view, of the matter we find that now this Petition has been rendered infructuous.

10. Petition stands dismissed.

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11. We are of the view that due to subsequent developments, this Petition is now rendered infructuous. Petition stands disposed of accordingly.

(FIRDOSH P. POONIWALLA, J.)

(SUNIL B. SHUKRE, J.)