

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 2653 OF 2019

Ponvel Nadarajan and Ors.

... Petitioners

V/s.

State of Maharashtra and Ors.

... Respondents

Mr. Ponvel Nadarajan, Petitioner No. 1 in-person and C.A. of
Petitioner Nos. 2 to 6 is present.

Mr. Manish Upadhye, AGP for the Respondent Nos. 1 and 2

Ms. Priyanka Bhadrashete for Respondent No.7

***CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.***

DATE : 04 OCTOBER 2023

P.C. :-

Heard the Petitioner-in-person. He has sought the
following prayers :-

*“(a) To issue a Writ of Certiorari or any other
appropriate writ, order or direction in the nature of
Certiorari declaring Section 77A of the Maharashtra
Co-operative Societies Act, 1960 as ultravires Articles
14, 19(1)(c), 43B, and Part IX B of the Constitution of
India in respect to Societies where there is no*

Government shareholding or loan or financial assistance or any guarantee by the Government.

(b) To issue a Writ of Certiorari or any other appropriate writ, order or direction in the nature of Ceritorari declaring Section 73CB (14) and 73I of the Maharashtra Co-operative Societies Act, 1960 as ultravires Articles 14, 19(1)(c), 43B and Part IX B of the Constitution of India.

(c) To issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Mandamus restraining Respondent Nos. 2 and 3 from exercising power invoking the aforesaid provisions of the MCS Act, 1960 over the Petitioners and Respondent No.4.

(d) To issue a Writ of Certiorari or any other appropriate writ, order or direction in the nature of Certiorari and thereby be pleased to declare that the power exercised by the Respondent Nos. 2 and 3 by invoking the aforesaid provisions of MCS Act, 1960 be declared as unconstitutional, illegal and not binding upon the Petitioners.”

2. As regard the cause of action which gives rise to the challenge, the Petitioner-in-person candidly admits there is no none as of today. He states that earlier challenge was levelled to the appointment of an administrator upon the Co-operative Society of which the Petitioner was an office bearer, which was disposed of. Thereafter, elections have taken place and the elected body is in place. Therefore, as on today there is no order against the Petitioner

that is in force. It is settled position that constitutional challenges are not to be examined by the Courts in abstract. As and when any order under these provisions passed, which affects the Petitioners, it is always open to the Petitioners like any other litigant to raise this challenge which will have to be considered on its own merits.

3. With these observations, the Writ Petition is disposed of.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.

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