

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 728/2023

(PRAVIN VINAYAKRAO DESHMUKH **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

WITH

WRIT PETITION NO. 823/2023

(CHUNNILAL NANDLALJI BENDRE **VERSUS** STATE OF MAHARASHTRA & OTHERS)

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

Court's or Judge's order

Dr. A.K. De, counsel for the petitioner in Writ Petition No. 728/2023.
 Shri A.M. Ghare with Shri O.A. Ghare, counsel for the petitioner in Writ Petition No. 823/2023.
 Shri R.L. Khapre, Senior Advocate with Ms N.P. Mehta, Assistant Government Pleader for the respondent nos.1 to 4 in Writ Petition No. 728/2023 and for respondent nos.1 and 2 in Writ Petition No. 823/2023.
 Shri S.S. Ghate, counsel for the respondent no.5 in Writ Petition No.728/2023.
 Shri G.G. Bade, counsel for the respondent no.3 in Writ Petition No. 823/2023.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : APRIL 10, 2023.

Heard.

The petition in Writ Petition No. 728 of 2023 seeks to represent the Members of the Managing Committee of the Agriculture Produce Market Committee, Kalamb, District Yavatmal. By virtue of the order dated 08.07.2022 passed in Writ Petition No. 3786 of 2022, the aforesaid Managing Committee continued to hold Office. The question with regard to continuation of such Managing Committees till the elections of the Market Committees are held came to be considered by this Court in **Writ Petition No. 3613 of 2022** [*Agriculture Produce Market Committee, Hinganghat Versus State of Maharashtra & Others*] by the order dated 05.01.2023. This Court had directed that where an elected body was in Office, the concerned Authority of the State Government was required to independently and individually decide whether an Administrator or the Board of Administrators was required to be appointed. Such decision was required to be taken on the basis of relevant considerations including the existence or otherwise of any allegation of misconduct or impropriety against the

elected body. Since the District Deputy Registrar on 09.01.2023 proceeded to appoint a Government Administrator on the Market Committee, the petitioner has challenged the said order.

The petitioner in Writ Petition No. 823 of 2023 is the Ex-Chairman of the Agriculture Produce Market Committee, Gondia. He is aggrieved by a similar order dated 09.01.2023 passed by the District Deputy Registrar, Co-operative Societies, Gondia by which a Government Administrator came to be appointed on the Market Committee.

Dr. A.K. De and Shri A.M. Ghare, learned counsel for the respective petitioners urged that the impugned order passed by the District Deputy Registrar appointing a Government Administrator fails to take into consideration the directions issued by this Court in Writ Petition No. 3613 of 2022 by which the District Deputy Registrar was to independently decide whether an Administrator or the Board of Administrators was required to be appointed. The relevant aspect of existence or otherwise of any allegation of misconduct or impropriety against the elected body was to be kept in mind. Ignoring the aforesaid, the Administrator came to be appointed. There were no allegations of any misconduct or any impropriety against the elected body and hence there was no justification whatsoever to appoint an Administrator when infact the elected body was competent to continue to manage the affairs of the Managing Committee. The learned counsel sought to draw the support from the decision in *Babasaheb Apparao Akat & Others Versus State of Maharashtra & Others* [2010(4) Mh.L.J. 360] to urge that the appointment of the Administrators without considering relevant aspects in the present cases was totally unjustified. It was further submitted that though elections of the Market Committees were directed to be completed by 30.04.2023 the fact that the writ petitions challenging the order dated 09.01.2023 were filed shortly thereafter namely on 16.01.2023 and 30.01.2023 respectively ought not to be held against the petitioners. The petitioners having made out a legal and valid right in their favour and the impugned order being not sustainable and contrary to the manner in which the exercise was directed to be conducted in Writ Petition No.3613 of 2022, the petitioners were entitled for the reliefs as prayed for.

Shri R.L. Khapre, learned Senior Advocate for the State Government opposed the aforesaid writ petitions. He urged that the reliance placed by the learned counsel for the petitioners on the decision in *Babasaheb Apparao Akat & Others* (supra) was misconceived since no application for extension of the tenure was pending at the behest of the Managing Committees. Assuming that an application for extension was pending the matter would be governed by the judgment of the Division Bench in *Udhav Shalikram Geete Versus State of Maharashtra & Others* [2014(1) Mh.L.J. 879]. It was then submitted that on 27.03.2023 the election programme had been declared and presently the scrutiny of nomination papers had been conducted and the nomination papers are to be withdrawn till 20.04.2023. For such a short period till 30.04.2023 no relief is liable to be granted to the petitioners especially when the Administrators had already taken charge on 10.01.2023.

Similar stand has been taken by Shri S.S. Ghate, learned counsel representing the State Co-operative Election Authority.

On hearing the learned counsel for the parties and after considering the documents on record we find that during the pendency of the present proceedings and acting on the directions issued in Writ Petition No.3613 of 2022 to hold such elections by 30.04.2023, the State Co-operative Election Authority has declared the election programme for the respective Agriculture Produce Market Committees. The election programme was declared on 27.03.2023 and the elections are to be held on 30.04.2023. The impugned orders have been passed on 09.01.2023 by which the Government Officers have been appointed as Administrators. The Administrators are in charge from 10.01.2023. At this point of time, we feel that for a short period of about twenty three days, no useful and practicable purpose would be served in removing the Government appointed Administrators and replacing them again with the elected Members of the Market Committees. It is an admitted position that the elective term of the respective Market Committees has come to an end and the said Market Committees are in the midst of the election programme.

We therefore find that in this factual backdrop issuing any writ at this point of time is not called for and on that premise we are not inclined to examine the challenge to the orders dated 09.01.2023 passed by the District Deputy Registrar, Co-operative Societies. We therefore in exercise of discretion refrain from entering into that aspect and also from considering the issue with regard to the applicability of the ratio of the decision in the case of *Babasaheb Apparao Akat & Others* (supra). Further, any interference at this stage would also result in changing the administration of the Market Committees since the Government Administrators would be required to be replaced by the petitioners if they are found successful in their challenge.

For aforesaid reasons, the challenge to the orders dated 09.01.2023 passed by the District Deputy Registrar is not entertained. The writ petitions are disposed of accordingly with no order as to costs.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

APTE