

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

MISC. CIVIL APPLICATION NO.878 OF 2022 (FOR REVIEW) IN
WRIT PETITION NO.6812/2022 (DECIDED)

Shri Jaysing s/o Chatursing Girase and others

vs.

Ritesh Sursh Saindane and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A. B. Girase, Advocate for applicants/original respondent nos.4 to 8.

Shri V. D. Hon, Senior Advocate for non-applicant no.1.

Shri A.M.Deshpande, I/c. Government Pleader with Ms N. P Mehta, Assistant Government Pleader for non-applicant nos. 2 to 4.

CORAM :- A.S.CHANDURKAR AND ANIL L. PANSARE, JJ.

DATE :- JANUARY 06, 2023.

Heard.

The applicants seek review of the order dated 15.12.2022 passed in Writ Petition No.6812 of 2022 principally on the ground that the order of status quo that was initially granted on 07.09.2022 came to be modified on 15.12.2022 in the absence of the learned Advocate for the respondent nos. 4 to 8 in the said writ petition. No opportunity was granted to the learned Advocate for the said respondents to be heard before the order dated 15.12.2022 came to be passed.

It is submitted by the learned Advocate for the applicants that in view of the order of status quo granted on 07.09.2022, the Board of Administrators holding charge continue in office. By the order dated 15.12.2022 Board of Administrators consisting of Government Officers was permitted to be appointed. This direction could not have been issued without hearing the present applicants. It is thus submitted that the aforesaid order be reviewed and the order of status quo dated 07.09.2022 be restored.

Shri V. D. Hon, the learned Senior Advocate appearing for the non-applicant no.1-original petitioner and the learned In-charge Government

Pleader for the non-applicant nos. 2 to 4 have opposed the application. They have referred to common order dated 05.01.2023 passed in Writ Petition No.3613 of 2022 (*Agriculture Produce Market Committee, Hinganghat Vs. State of Maharashtra and ors.*) with connected writ petitions and have submitted that in the State of Maharashtra where the elections are due would be held by 30th April, 2023. Further, a direction has been issued granting opportunity to the State Government to replace or substitute the Administrator or Board of Administrators with Government Officer/Officers. It is thus submitted that since the aforesaid directions have been issued that are to operate in the entire State of Maharashtra, the order of status quo dated 07.09.2022 does not deserve to be restored. The learned Senior Advocate for the non-applicant no.1 submits that notice of hearing of Writ Petition No.6812 of 2022 was given to the Advocate for the present applicants on 09.12.2022 and therefore it could not be said that without such notice the writ petition was considered for admission and disposal.

It is seen that on 15.12.2022 Writ Petition No.6812 of 2022 was not board. It was accordingly taken on board as mentioned by the learned Senior Advocate for the petitioner in writ petition. It is also seen that due notice that the writ petition would be taken up on 15.12.2022 was given to the learned Advocate for the present applicants and it is also correct that the writ petition was not on board on the said date. The fact remains that the said order was passed on 15.12.2022 without hearing the learned Advocate for the applicants. We however find that in view of subsequent common order passed in Writ Petition No.3613/2022 with connected writ petitions on 05.01.2023 issuing directions to the State Election Authority to ensure that elections of the Market Committees in the State of Maharashtra where they are due be held by 30th April, 2023 with a further opportunity to the State Government to replace or substitute the Administrator or Board of Administrators with Government Officer/Officers the prayer for restoring the order of status quo would run counter to the said order. Thus, in all Market Committees where the Administrators or Board of Administrators consisted of private individuals other than the Government Officers, the

same were to be replaced. In these facts, restoring the order of status quo dated 07.09.2022 would amount of making an exception in the case of the present Market Committee. We are not inclined to adopt such course.

Since we find that the issue pertaining to administrative affairs of the Administrator or Board of Administrators has been resolved and directions have been issued that are to operate in the entire State of Maharashtra, we are not inclined to exercise review jurisdiction in the light of these facts as restoring the order of status quo dated 07.09.2022 would run counter to the order dated 05.01.2023 passed in the bunch of writ petitions issuing directions applicable to the entire State of Maharashtra.

The Miscellaneous Civil Application is therefore rejected. Prayer made for continuing the order of status quo granted on 23.12.2022 is refused in the above circumstances. No costs.

(ANIL L. PANSARE, J.)

(A.S.CHANDURKAR, J.)

Andurkar..