



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

WRIT PETITION NO.8196/2023

Bhagwatrao Vitthalrao Kolhe

...Versus...

The State of Maharashtra, through its Divisional Joint Registrar Co-operative Societies, Nagpur and others

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

Court's or Judge's orders

Mr. C.S. Kaptan, Sr. Advocate with Mr. P.V. Ghare, Advocate for petitioner
Mr. Harshwardhan Dhumale, AGP for respondent nos.1 to 3
Mr. A.A. Naik, Advocate for respondent no.5
Mr. M.V. Samarth Sr. Advocate with Mr. S.S. Shingane, Advocate for intervenor

CORAM : AVINASH G. GHAROTE, J.

DATE : 12/12/2023

1. The petition challenges the order dated 16/11/2023, passed by the Divisional Joint Registrar Co-operative Societies, Nagpur in an appeal under Rule 72 A (3) of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 [“APMC Rules, 2017” for short hereinafter] filed by the respondent no.5, against the judgment in Election Petition No.3574/2023/1878/2023, dated 03/11/2023 (pg.52), by which the election of the respondent no.5 has been set aside on the ground that on the day of filing of the nomination on

account of earlier order dated 16/01/2017 (pg.79) the respondent no.5 stood disqualified under Section 45 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 [“APMC Act” for short hereinafter], a challenge to which disqualification in Writ Petition No.365/2017 has been turned down by the judgment dated 13/04/2018 (pg.156), special leave petition against which has been dismissed on 11/05/2018, resulting an Administrator being appointed on 13/05/2018. A review of the judgment in Writ Petition No.365/2017 dated 13/04/2018 vide Misc. Civil Application St. No.8193/2020 has also been dismissed on 09/09/2020 (pg.122). The elections were held on 28/04/2023; an objection to the nomination of the respondent no.5 was rejected and the result of the election was declared on 29/04/2023. The said election was challenged in Election Petition No.3574/2023, which came to be allowed on 03/11/2023 on the ground that since there was a stay for 477 days from 16/01/2017 to 13/05/2018, for counting the aforesaid period of six years, the period as contemplated by Section 45(2A) of the APMC Act was required to be deducted. In an appeal under Rule 72 A(3) of the APMC Rules, 2017 by the interim order dated 16/11/2023, the judgment dated 03/11/2023 has been stayed.

2. The parties are *ad idem* that the appeal itself could be finally decided by tomorrow, accepting which

position, the Divisional Joint Registrar/respondent no.1 is directed to hear the matter today and decide the appeal by tomorrow.

3. The parties are therefore directed to appear before the Divisional Joint Registrar/respondent no.1 today itself at 3:00 p.m., at which time, the petitioner herein shall advance his arguments and complete the same today itself. Considering the difficulty of the respondent no.5 that his Counsel is out of station, he is permitted to address the learned Divisional Joint Registrar/respondent no.1 tomorrow at 10.00 a.m. sharp and complete his arguments before noon, whereupon the learned Divisional Joint Registrar/respondent no.1 shall proceed to pass the appropriate judgment deciding the appeal by 10:00 a.m. of 14/12/2023. This is necessitated, as the election to the post of Chairman of the Agricultural Produce Market Committee, Washim, which post the respondent no.5 was occupying till 04/12/2023 has been vacated by him and the election to the vacancy is to be held on 14/12/2023, in which situation, instead of postponing the elections the above position with the consent of the respective parties would take care of the position. No notice is required to be issued to APMC/respondent no.4 as it is a formal party.

4. The writ petition is accordingly disposed of in the above terms. The learned Counsels for the petitioner and the

the respondent no.5 respectively shall place a copy of this order before learned Divisional Joint Registrar/respondent no.1 at 2:00 p.m. today itself to apprise him of this order and shall remain present in his Court.

5. Steno copy of this order is granted.

(AVINASH G. GHAROTE, J.)

Belkhede