

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5591 OF 2024

Ganga-Vishnu Heights CHS Ltd & Ors.

.. Petitioners

Versus

Ajay V. Tamhankar & Ors.

.. Respondents

.....

- Mr. Dnyaneshwar G. Adsul for Petitioners
- Mr. D.D. Deshmukh, AGP for State

.....

CORAM : MILIND N. JADHAV, J.

DATE : APRIL 22, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 22.04.2024. Heard Mr. Adsul, learned Advocate for Petitioners and Mr. Deshmukh, learned AGP for State.
3. Mr. Adsul would submit that Petitioners are disqualified members of the Managing Committee of the Society who by virtue of the order dated 11.03.2024 passed by the Dy. Registrar, Co-operative Societies, Pune (1) have been disqualified from engaging with the post / office bearers / as committee members of the Society. He would submit that Administrator has also been appointed by virtue of the said order. He would submit that substantive challenge is maintained to the impugned order of disqualification in the present Writ Petition which is filed on 08.04.2024. He would submit that pursuant to filing of the Writ Petition, a further communication has been addressed by

Dy. Registrar dated 12.04.2024 which has been served on the office bearers of the Society on 20.04.2024. He would submit that Managing Committee Members and office bearers of the Society received a handwritten letter from the Administrator on 20.04.2024 stating that the entire charge of the Society should be handed over to the Administrator. He would submit that the said Administrator is a certified Auditor and not a member of the Society.

4. Mr. Adsul has placed before me a copy of the Writ Petition and drawn my attention to the grounds contained therein. One of the submissions made by Mr. Adsul is that without giving any show-cause-notice or opportunity to the Managing Committee members, the impugned order has been passed of their disqualification for five years.

5. *Prima facie* after hearing Mr. Adsul, I am of the opinion that there is transgression of the principles of natural justice and in that view of the matter, the impugned order dated 11.03.2024 stands stayed. Resultantly subsequent order dated 12.04.2024 also stands stayed and the same shall be implemented subject to the outcome of the present Writ Petition. The Society Managing Committee shall manage the affairs of the Society in the meanwhile, but shall not take any major policy decisions and also implement them.

6. Issue notice to the Respondents made returnable on 10.06.2024. Mr. Deshmukh, learned AGP waives service on behalf of State.

7. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve copy of the Petition along with copy of this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. After receiving the notice, Respondents to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Petitioner.

8. Respondents are directed to remain present either themselves or through their Advocate on the next adjourned date. It is made clear that if Respondents remain absent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of the Respondents.

9. Learned AGP shall take cognizance of this order and accordingly address to the Court on the next adjourned date.

10. In the meanwhile, Managing Committee shall continue with the day to day proceedings of the Society and subject to outcome of the present Writ Petition, the issue of handing over charge of the Society shall be decided by the Court.

11. Stand over to 10th June, 2024.

[MILIND N. JADHAV, J.]