



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 13785 OF 2024

IN

WRIT PETITION NO. 12030 OF 2024

Basavraj Mahadeo Malge

... Applicant/
Petitioner

Versus

The State of Maharashtra, through the Department of
Cooperation Marketing and Textile & Ors. ...Respondents

Mr, Anil Sakhare, Senior Advocate i/b. Mr. Rohan Mirpury for the
applicant/petitioner.

Mr. A.I. Patel, Addl. G.P. a/w. Mr. M.M. Pabale, AGP for respondent no.
1/State.

Mr. Dilip Bodke for respondent nos. 2 and 3.

Mr. Abhijit D. Kulkarni a/w. Mr. Chinmay Patil for respondent no. 4.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
Date : 13 January, 2025

PC:

1. This Interim Application is filed by the applicant/petitioner seeking
leave to amend the petition in terms of Schedule A annexed to the Application.

In addition of Schedule A, considering the development subsequent to the
filing of the Interim Application, namely, of the State Government issuing
further directives dated 31 December, 2024 as also the communication dated 1
January, 2025 of the State Government to respondent nos. 2 and 3, Mr.
Sakhare, learned senior counsel for the petitioner wants to place on record the

draft amendment.

2. Having perused the averments as made in the application and the draft amendment as tendered in the Court, considering the fact that the petition is at the admission stage, we permit the applicant/petitioner to amend the petition in terms of Schedule A and the draft amendment.

3. Let the amendment be carried out within one week from today. A copy of the amended petition be served on all the parties. Reply affidavit be placed on record within a period of two weeks from today.

4. Mr. Sakhare, learned senior counsel has also prayed for ad-interim reliefs.

5. We have heard learned counsel for the parties on such issues. As there is no reply affidavit, learned AGP is not in a position to assist the Court in the interim prayers. We may observe that the elections of respondent no. 4- Agricultural Produce Market Committee Solapur are subject matter of reliefs as prayed for in the petition.

6. The case of the petitioner is that the term of the Board of Directors of Solapur Agricultural Produce Market Committee expired on 14 July, 2023. However, by an order dated 13 June, 2023 passed by the State Government in exercising the powers under section 14(3) of The Maharashtra Agricultural Produce Marketing (Development & Regulation) Act, 1963 (for short “APMC

Act”), the term of the Board of Solapur APMC was extended for a period of six months upto 14 January, 2024. By a notification dated 10 January, 2024 under Section 14(3A) of APMC Act, the State Government extended the term by a further period of six months upto 14 July, 2024. Thereafter, respondent no. 2-State Election Authority issued an order dated 10 June, 2024 notifying the commencement of election process for Solapur APMC. Accordingly, on 28 June, 2024, election program for finalizing the voters list for Solapur APMC was published. On 18 July, 2024, District Election Officer prepared further election program for nomination and polling and forwarded the same to the State Election Authority for approval. Pursuant thereto on 24 July, 2024, final voters list for elections of the Board of Solapur APMC was published and it is at this stage, on 2 August, 2024, the State Government issued an order under Section 14(3A) of APMC Act postponing the elections till 30 September, 2024 despite the fact that the election process for the Solapur APMC had already commenced, the impugned communication dated 5 August, 2024 was applied to the election of Solapur APMC.

7. It is a categorical case of the petitioner that after the effect of the order dated 2 August, 2024 came to an end on 30 September, 2024, further election program for filing nominations for the Solapur APMC was declared on 4 October, 2024. It is immediately thereafter on 7 October, 2024, second

impugned order was issued by the State Government under Section 14(3A) postponing the elections till 31 December, 2024. On such backdrop, on 20 December, 2024, State Election Authority rejected the application made for re-fixing cut-off date and preparing fresh voters list for Solapur APMC.

8. Considering the aforesaid events, the case of the petitioner is to the effect that in the first place, the impugned orders issued by the State Government postponing the elections of Solapur APMC are arbitrary and illegal, as blanketly the reasons which are set out in the said order on the ground of a deemed excessive rainfall in the Solapur region which on the face of it is untenable the elections of the Solapur APMC were postponed. The second contention as urged by the petitioner is to the effect that once the election program was notified and already set into motion which had progressed upto the nomination being invited, the State Government would not have jurisdiction to interfere in such election process and more particularly considering the recent order dated 31 December, 2024 whereby the State Government is directed that a fresh voters list be prepared.

9. *Prima facie* we find substance in the contentions as urged on behalf of the petitioner not only considering the reasons which are set out in the impugned order dated 2 August, 2024 and explanation thereof but also considering the provisions of Section 14(3A) of the APMC Act. We may also

observe that the election authority has also clearly set out that there was certain APMCs which have approached the Court and in such cases in pursuance to the Court orders, elections of such APMCs were conducted. This has created an anomalous situation in as much as qua those APMCs which had approached the High Court, the elections were conducted and those APMCs who did not approach the High Court, the elections would not be conducted, as blanketly set out in the orders passed by the State Government. This is certainly not the object and intention of Section 14(3A) of the APMC Act.

10. Mr. Sakhare's reliance on the decision of Division Bench of this Court in **Mohan Anandrao Munde & Anr. vs. State of Maharashtra & Ors.**¹, in our opinion, is apposite when the Court has observed that neither the Act nor the rules empower the State Government or the authorities to stall the ongoing process of election in similar circumstances. The Court also observed that the reasons for postponement given, as spelt out in the said provision, which is akin to the position in the present proceedings, namely, the reason of scarcity, drought, flood, fire or any other natural calamity or rainy season or any election programme, of the State Legislative Assembly or Council or the House of the People or a local authority, which in the opinion of the State Government are exceptional is also applied to the petitioner under the State

¹ 2006(60 Mh. L.J.

Government's order dated 2 August 2024 as a situation not in the public interest to hold elections to any society or class of Societies, hence the State Government would be justified in exercising the powers and postpone the elections. It was further observed that such power exercisable by the State Government under Section 73-1B is required to be exercised in the given circumstances and such power is expected to be exercised before the programme of the election is set in motion. The Court observed that there was no justification for the action of the State Government for stalling the ongoing process of election.

11. In the aforesaid circumstances, we are of the clear opinion that the applicant/petitioner has made out a strong *prima facie* case for grant of ad-interim relief. Accordingly, till the adjourned date of hearing, the State Government and the Election authorities are directed not to act upon the order dated 31 December, 2024. Ordered accordingly.

12. We clarify that this order is applicable insofar as respondent no. 4-Solapur APMC is concerned.

13. Interim Application is allowed in the aforesaid terms.

14. List the petition on **3 February, 2025**.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)