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

WRIT PETITION NO.1432 OF 2024

Bhagwatrao S/o Vitthalrao Kolhe,
Aged about 49 years, Occ: Agriculturist,
R/o Gondegaon, Post : Bhattumra,
Tq.&Dist. Washim. ...**PETITIONER**

...V E R S U S...

1. Divisional Joint Registrar,
   Cooperative Societies, Nagpur.

2. District Election Officer (Agricultural
   Produce Market Committee) and
   District Deputy Registrar,
   Cooperative Societies, Akola.

3. Returning Officer for the Election of
   Agricultural Produce Market Committee,
   Washim, through District Deputy Registrar
   Cooperative Societies, Washim.

4. Agricultural Produce Market Committee, Washim
   Tq. and Distt. Washim, through its Secretary.

5. Shri Raju @ Vitthal S/o Pandurang Choudhary
   Aged about 56 years, Occ: Not known,
   R/o Pardi Takmor, Tq. and Distt. Washim.

...**RESPONDENTS**

WITH
WRIT PETITION NO.1433 OF 2024

Bhagwatrao S/o Vitthalrao Kolhe,
Aged about 49 years, Occ: Agriculturist,
R/o Gondegaon, Post : Bhattumra,
Tq.&Dist. Washim. ...**PETITIONER**

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   Cooperative Societies, Washim.

4. Agricultural Produce Market Committee, Washim,
   Tq. and Distt. Washim, through its Secretary.

5. Shri Subhash s/o Kaniram Rathod
   Aged about 58 years, Occ: Not known,
   R/o Januna, Post. Tandali Shevai, Tq. &
   Distt. Washim. ...**RESPONDENTS**

Shri F.T. Mirza, Senior Advocate a/b Ms Isha Thakare, Advocate for petitioner.
Shri Akshay Naik, Senior Advocate a/b S/Shri Rohan Deo, Yashowardhan Sambre, Advocates for respondent no.5.
Ms M.R. Kavimandan, A.G.P. for respondent nos.1 to 3.

CORAM:- M.W. CHANDWANI, J.
RESERVED ON : 09.02.2026.
PRONOUNCED ON : 05.03.2026.

JUDGMENT:

1. **Rule**. Rule made returnable forthwith. Heard finally with the consent of both the parties.

2. The petitioner in both petitions is the same and respondent no.5 in both writ petitions are the persons elected as Director of the Agricultural Produce Market Committee, Washim, whose elections are challenged. Therefore, both writ petitions are clubbed together and decided by this common judgment.

3. Both writ petitions challenge the order dated 18.01.2024 passed by respondent no.1 – the Divisional Joint Registrar, Cooperative Societies, Nagpur (for short, "**Appellate Authority**") in A.P.M.C. Election Appeal Nos.04/2023 and 05/2023, wherein the order dated 03.11.2023 passed by respondent no.2- the District Election Officer (Agricultural Produce Market Committee) and District Deputy Registrar, Cooperative Societies, Akola (for short "**DEO, Akola**") and the interim stay order dated 16.11.2023 passed by the Divisional Joint Registrar, Cooperative Societies, Nagpur was set aside. Thereby the election held wherein respondent no.5 was elected as Director of respondent no.4 – the Agricultural Produce Market Committee, Washim (for short, "**APMC**") was upheld.

4. The District Deputy Registrar, Cooperative Societies, Washim (for short, "**DDR, Washim**") vide order dated 16.01.2017 (for short, "**Removal Order**") removed 17 Directors out of 18 under Section 45 (1) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (for short, "**APMC Act**") citing the reason that the Directors are not competent to run the business of the APMC smoothly and they signed a resolution which according to DDR, Washim was in breach of the proviso (1) to Section 12 of the APMC Act, which caused financial loss to the APMC. One Director was not subjected to removal for reason that he was not present in the meeting and therefore, he could not sign the resolution passed. The Removal Order came to be challenged up to the Supreme Court and even thereafter, under review jurisdiction, but it was maintained.

5. Thereafter, fresh elections of the APMC were conducted wherein, respondent No.5 were elected as Directors of the APMC. The petitioner who is a farmer and a voter as well as an Ex-President and Member of the APMC, preferred the election petition bearing No.2567/2023 before the DEO, Akola against respondent no.5 on the ground that, since respondent No.5 was removed, he is disqualified from contesting further elections. The said Election Petition came to be allowed vide order dated 03.11.2025 by the DEO, Akola against which respondent No.5 preferred an appeal before the Appellate Authority which came to be allowed by the impugned order. Feeling aggrieved with the impugned order passed by the Appellate Authority, these two writ petitions came to be filed by the petitioner.

6. Mr. Mirza, learned Senior Counsel for the petitioner in both the petitions vehemently submitted that Section 45 of the APMC Act prescribes that once a member of Market Committee is removed, such member as per Section 45(2A) of the APMC Act shall not be eligible to be re-elected, re-appointed, re-nominated, co-opted or re-co-opted as a member of the committee, till expiration of a period of six years from the date of the order of removal. The further contention is that, respondent No.5 were removed from membership of the Market Committee and therefore, they will be disqualified under Section 45(2A) of the APMC Act for a period of six years i.e. till 15.01.2023. According to the learned Senior Counsel, though six years expired on 15.01.2023, but there was a stay in subsistence for 477 days and that period is required to be included. Therefore, respondent no.5 were disqualified till 12.05.2024 but they contested the election of the APMC which was held on 29.04.2023 and were elected. Since, they were disqualified till 12.05.2024, they are not duly elected members of the APMC and therefore, the election held should be set aside.

7. Per contra, learned Senior Counsel Mr. Naik, appearing on behalf of respondent no.5 in both the petitions, vehemently submitted that the disqualification attracts only in case if the member is removed. According to him, here the entire body of Market Committee was removed by supersession. Only one member was not superseded because fortunately or unfortunately, he was not present when the resolution was being passed. According to him, in case of supersession of Market Committee, State Marketing Board is required to be consulted as per proviso to Section 45(1) of the APMC Act, which is done in this case and therefore, this is a case of supersession of entire Market Committee and the action is not of removal of any individual member. According to him, the Appellate Authority has rightly upheld the election of respondent no.5 as legal and valid. Hence, no interference is required in the order passed by the Appellate Authority.

8. For appreciating the argument of the learned Senior Counsels, it is essential to reproduce Section 45 of the APMC Act.

> *"45. Supersession of Market Committee, etc.—*
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> *(1) If, in the opinion of the State Government, a Market Committee or any member thereof, is not competent to perform or persistently makes default in performing the duties imposed on it or him by or under this Act, or abuses its or his powers or wilfully disregards any instructions issued by the State Government or any officer duly authorised by it in this behalf arising out of audit of*

accounts of the Market Committee or inspection of the office and work thereof, the State Government may, after giving the Committee or member, as the case may be, an opportunity of rendering an explanation, [by an order in writing with reasons therefore] superseded such Market Committee, or remove the member as the case may be; and where a member is removed, the State Government shall appoint any person as a member of such Committee in his place for the remainder of his term of office:

[2][Provided that, no Market Committee shall be superseded without the [State Marketing Board] referred to in section 44 being previously consulted.]

(2) [4][On issuing of an order] under sub-section (1) superseding a Market Committee, the following consequences shall ensure, that is to say—

(a) all members of the Market Committee shall as [5][from the date of such order] be deemed to have vacated their office:

(b) all the property vesting in the Market Committee shall, subject to all its liabilities, vest in the State Government;

[6][(c) the State Government may, by order, either constitute a new Market Committee in accordance with the provisions of Chapter III or appoint an Administrator or [7][the Board of Administrators of not more than seven members to carry out] the functions of the Market Committee as it thinks fit.]

[1][Provided that, the [2][Administrator or the Board of Administrators] under clause (c) for carrying out of the functions of the Market Committee shall, within the period of six months from assuming the charge ensure that, the elections to the Market Committee are held within that period. [3][If the Administrator or the Board of Administrators] fails to hold the elections within the said period the Director may, after satisfying himself about proper justification for not holding elections, grant extension of not more than six months, for enabling the

[2][Administrator or the Board of Administrators] to hold such election.]

[4][(2A) The member of the Committee, who has been removed under sub-section (1) shall not be eligible for being re-elected, re-appointed, re-nominated, co-opted or re-co-opted as a member of the Committee, till the expiry of a period of six years from the date of the order by which he has been so removed.]

(3) If the State Government makes an order under clause (c) of sub-section (2), it shall transfer the assets and liabilities of the Market Committee, as on the date of such transfer, to the new Market Committee constituted as aforesaid or to the person or persons, if any, appointed for the carrying out of the functions of the Market Committee, as the case may be.

(4) If the State Government does not make such an order, it shall transfer all the assets of the Market Committee which remain after the satisfaction of all its liabilities, to a local authority within whose jurisdiction the Market Committee is situated and if there are more than one such local authorities, to each of such local authorities, such portion of the property as the State Government may decide.

(5) The local authority to which the assets of a Market Committee are transferred under sub-section (4) shall utilise such assets for such objects in the area within its jurisdiction as the State Government considers to be for the benefit of the agriculturists in that area"

9. Thus, it appears that Section 45 of the APMC Act speaks about supersession of Market Committee as well as removal of an individual member. If the member is removed, then the State Government can appoint any other person as a member of such committee in his place for the remainder of his term of office. If an order superseding the Market Committee is passed, then the State Government by an order, can either constitute a new Market Committee or appoint an Administrator or a Board of Administrators of not more than seven members to carry out the functions of the Market Committee as it thinks fit.

10. Section 45 (2A) of the APMC Act entails disqualification of a member who has been removed for a further period of six years from the date of the order of removal. Thus, if a member is removed, then the clause of disqualification under Section 45 (2A) of the APMC Act will be attracted and if the market committee is superseded, then such disqualification will not apply. This appears to be the true interpretation of Section 45 of the APMC Act. Now, it has to be decided whether the order passed by the DDR, Washim dated 16.01.2017 is an order of supersession of entire Market Committee or an order of removal of an individual member.

11. Undisputedly, out of 18 Directors 17 have been removed and the one director who was not removed was because he was absent on the date when the resolution in question came to be passed. Thus, the order speaks of removal of all 17 Directors but it is brought to my notice that before passing the Removal

Order, the State Government was consulted. Not only this, after removing all 17 Directors, the Administrator was appointed by the DDR, Washim. All this happens in contingency of supersession of the Market Committee. That apart, respondent no.5 have not been removed based on the act which they did in their individual capacity, but all 17 Directors who signed the resolution were removed for the act which they collectively. Even tenor of the Removal Order reveals that it is passed with regard to supersession of the entire Market Committee. Rather, had the one Director who was not disqualified been present in the said meeting, he would have also signed the resolution and would have met with the same fate. Considering the nature of action taken by the DDR, Washim, it can be seen that the order is of supersession of Market Committee and not of removal of members.

12. Therefore, in my considered view, the disqualification prescribed for removal of a member under Section 45 (2A) of the APMC Act would not be attracted in case of respondent no.5. No interference is required in the impugned order 18.01.2024 passed by the Divisional Joint Registrar, Cooperative Societies, Nagpur in Appeal Nos.04/2023 and 05/2023.

13. The petitions are devoid of merits and hence, both petitions stand dismissed. Rule is discharged.

(M.W. Chandwani, J.)

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