

ITEM NO.13

COURT NO.2
(HEARING THROUGH HYBRID MODE)

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No.4628/2022

(Arising out of impugned final judgment and order dated 04-03-2022 in WPST No.22847/2021 passed by the High Court Of Judicature At Bombay)

DARI VIVID KARYAKARI SAHAKARI SANSTHA MARYADIT
& ORS.

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(FOR ADMISSION and I.R.; IA No.37549/2022 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.37550/2022 - FOR EXEMPTION FROM FILING O.T.)

WITH

SLP(C) No.4728/2022 (IX)

(IA No.38364/2022 - FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; IA No.38365/2022 - FOR EXEMPTION FROM FILING O.T.; and, IA No.38363/2022 - FOR PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 15-03-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHAFor Petitioner(s) Mr. P. Chidambaram, Sr. Adv.
Mr. Shekhar Naphade, Sr. Adv.
Mr. M.N. Rao, Sr. Adv.
Mr. M.Y. Deshmukh, Adv.
Ms. Manjeet Kirpal, AOR
Mr. Nandkumar Deshmukh, Adv.Mr. Shekhar Naphade, Sr. Adv.
Mr. P. Chidambaram, Sr. Adv.
Ms. Farah Hashmi, Adv.
Ms. Aishwarya Dash, Adv.
Mr. Anshuman Ashok, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Heard Mr. P. Chidambaram, Mr. Shekhar Naphade, and Mr. M.N. Rao, learned Senior Advocates in support of the petitions.

The election to the Nashik Agricultural Produce Committee (Respondent No.2) was held in the year 2015 and the term of office as stipulated in Section 14 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 ('the Act', for short) expired on 19.08.2020. Thereafter, invoking the power available in terms of the *second proviso* to Section 14(3) of the Act, the period within which the general election had to be held, was extended twice over. It is accepted position that even after such extensions, the elections were not held.

Two orders concerning Agricultural Produce Market Committees' elections, were passed by two different Benches of the High Court. First order was passed on 18.11.2021 by a Bench at Aurangabad directing that the elections to primary Societies be held first; and the second order dated 06.12.2021 passed by a Bench at Bombay directed that the elections be held in terms of the Schedule, which was declared by the time the second order was passed.

As the facts on record indicate, an order was thereafter passed on 21.01.2022, in the name of the Governor of Maharashtra exercising power under Section 59 of the Act. Relevant part of the order was as under:

"1. All the Board of Directors/Non Government Administrators Board/Administrator existing as on 23.01.2022, excluding the Board of Directors in respect of which the Hon'ble High Court or any other Court have issued orders for holding the elections and against whom

actual inquiry has been started, extension is granted till the election of the concerned Agriculture Produce Market Committee are held and the newly elected body takes the charge or for a period of three months from 23.1.2022 whichever is earlier.

2) However, they would not be able to take any policy decision till the date of extension.

3) However, in some exceptional situations, if the policy decision is required to be taken, then the prior approval of the Government be obtained and a complete proposal to that effect be submitted to the Government, through the Director of Marketing, Maharashtra State, Pune."

However, subsequently in an affidavit filed in the present proceedings, it was stated on behalf of the Government:

"7. I say that on 01.03.2022, the said group of Writ Petitions were listed before the Hon'ble Bench whereby the statement was made on behalf of the concerned Advocate for the parties stating that the said scheduled election program has been cancelled and the elections are not held as per the said schedule. I say that the Hon'ble Aurangabad Bench in Group Writ Petition No.11669 of 2021 passed an order dated 18.11.2021. The operative part of the order is quoted herein below:-

"In the light of above facts and circumstances and the stand of the State Government the State Co-operative Election Authority, Taluka Co-operative Election Officer and the District Election Officer of APMC shall first conduct the elections of the Primary Agricultural Societies and thereafter all APMCs. The same shall be done expeditiously and in time bound manner. We are also being apprised, the Election Authorities have already commenced the elections of the Primary Agricultural Societies phase wise manner, the same shall be expedited of course adhering to the time stipulations under the statute and without wasting any further time."

Hereto annexed and marked Exhibit-6 is the copy of order dated 18.11.2021 passed by the Hon'ble Aurangabad Division Bench. I say that in compliance of the directions issued by the Hon'ble Aurangabad Bench, the present election program of the APMC, Nashik has been postponed. I say that once the election program of the Primary agricultural Societies is over, the election program of the APMC,

Nashik shall be declared and accordingly elections will be held.

8. I say that in so far as the directions issued by the Hon'ble Aurangabad Bench is concerned, the election program of the Primary Agricultural Societies has already been commenced, in respect to that order dated 26.11.2021 is passed by the Secretary, State Co-operative Election Authority whereby election program of the primary agricultural society is set out. I say that the said election program of the primary agricultural society related to Nashik Primary Agricultural Societies will be completed by 08.05.2022 and thereafter, the election program of the APMC Nashik shall be declared and the elections will be completed approximately 3 months after declaration of the election program of the APMC.

While considering the present matters, in light of these developments, the High Court in its order dated 04.03.2022, which is presently under challenge, observed as under:

"5. The other question is in regard to the term of the present committee of Nashik APMC. The term of that committee was twice extended by a periods of six months each. Both extensions were on account of Covid 19 pandemic. The last extension was until 19th August 2021. We emphatically reject the submission that this ad hoc committee, the term of which was continued in an exceptional emergency situation, should now be allowed to continue albeit without the right to take policy decisions. This ad hoc committee has no right at all *inter alia* under Section 14(3A), to continue after the expiry of its term. The limited extension of the term cannot be read to mean an indefinite extension. The two extensions were respectively under Section 14(3A) and Section 49. Section 14(3A) is predicated on an emergency situation such as scarcity, natural calamities. Section 59 gives the State Government power to exempt the market committee or any class of persons from any of the provisions of this Act. What is undeniable is that the second extension notification also had a specified end date, that of 19th August 2021. There is no extension thereafter. There is no fresh extension. Such a notification with a specified and limited life-span cannot be construed to mean an indefinite exemption from the Act or an indefinite extension. Further, it is not as if the statutory authorities are entirely without powers in a situation like this."

Thus, while first two extensions of six months each were granted *inter alia* in exercise of power under the *second proviso* to Section 14(3) of the Act, reliance has now been placed on Section 59 of the Act to grant further extension.

One of the points which has come up for our consideration is whether having exhausted the time limit which is permissible and allowable under the *second proviso* to Section 14(3), whether power can still be exercised under Section 59 of the Act. The expression used in the *second proviso* to Section 14(3) is quite clear and it stipulates "*where the general election of members of a Committee could not be held for reason beyond the control of the Committee before expiry of the term of office of its members as aforesaid, the State Government may, by order in the Official Gazette, extend from time to time, the term of office of any such Committee, so however, that the period for which the term of office is so extended shall not exceed the period of one year in the aggregate.*" (emphasis added)

As against the power under Section 14(3) which is special and deals with the matter of extension of time within which the elections must be held, the power under Section 59 of the Act is quite general. This special power has specified the maximum permissible limit for extension. The maximum permissible period of extension having been exhausted in the instant case, there could be no further extension by taking resort to Section 59 of the Act.

Viewed thus, the order passed by the High Court does not call for any interference. We, therefore, dismiss these Special Leave Petitions.

Pending applications, if any, also stand disposed of.

(MUKESH NASA)
COURT MASTER

(VIRENDER SINGH)
BRANCH OFFICER