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**(2003) 12 BOM CK 0058**  
**In the Bombay High Court**  
**Case No : Writ Petition No. 1342 of 2002**

Deepak Shriram Tirke

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

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**Date of Decision :** 18-12-2003

**Acts Referred:**

**Citation :** (2004) 2 ALLMR 143 : (2004) 5 BomCR 837 : (2004) 1 MhLj 444

**Hon'ble Judges :** V.C. Daga, J; B.R. Gavai, J

**Bench :** Division Bench

**Advocate :** P.C. Madkholkar, for the Appellant; B.H. Dangre, Assistant Government Pleader For respondent Nos. 1 to 3 and R.L. Khapre, For respondent Nos. 5 to 18, for the Respondent

**Final Decision :** Partly Allowed

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## Judgement

B. R. Gavai, J.—The present petition has been filed by the petitioner, praying for a writ of mandamus, to declare the election programme dated 11-3-2002, published by the Collector, Washim for the election to the managing committee of Shri Balaji Sahakari Sut Girni Maryadit, Risod, to be illegal and bad in law, being violative of statutory mandate of Section 73-B of the Maharashtra Co-operative Societies Act (hereinafter referred as the "said Act"). The petitioner further prays for a direction to the Collector, Washim, to hold the elections afresh by including four additional seats as prescribed thereunder.

2. The facts, in brief, giving rise to the filing of the present petition are as under.

3. The tenure of the nominated board of the respondent No. 4, Shri Balaji Sahakari Sut Girni Maryadit, Risod (hereinafter referred to as the "said Society") came to an end on 24-3-2001. It appears that, there was certain litigation in this Court, with regard to appointment of an administrator, on the ground that the tenure of the nominated board of directors had expired. It further appears that the Joint Registrar, Co-operative Societies, by order dated 16-10-2001, appointed District Deputy Registrar as an administrator of the society, as per the directions

issued by the State Government on 10-11-2001.

4. The provisional list of voters of the said society was published on 8th January, 2001, in accordance with the Maharashtra Specified Co-operative Societies Elections to Committee Rules, 1971 (hereinafter referred as the "said Rules"). The final list of voters was published on 4-2-2002. It appears that there was a petition filed in this Court, by one Parashram Gade Junghare, challenging the final list of voters, being Writ Petition No. 1053 of 2002, which came to be dismissed on 1st April, 2002.

5. On 23rd April, 2001, an ordinance was promulgated, amending Section 73-B of the Act, thereby making certain changes in Sub-section (1) of Section 73-B of the said Act. Sub-section (1) of Section 73-B as amended, provides for four reserved seats as under:--

"(a) one for the members belonging to the Scheduled Castes or Scheduled Tribes;

[(a-1) one for the members belonging to the Other Backward Classes;

(a-2) one for the members belonging to the De-notified Tribes (Vimukhta Jatis), Nomadic Tribes or Special Backward Classes; and];

(b) one for the members belonging to the weaker section."

6. The Collector, Washim on 11th March, 2002, published the election programme for election of the Committee of the said society. The said programme was published for election of members from following categories,

(i) Representatives from the producers-member category -- 10.

(ii) Representatives from Co-operative Societies-members category --1.

(iii) Representatives from Weaker section-members Category -- 1.

(iv) Representative from Scheduled Castes, Scheduled Tribes and Vimukta Jatis - members category -- 1.

(v) Representative from women - members category -- 2.

7. In pursuance of the election programme, the petitioner filed his nomination papers, from the constituency reserved for Scheduled Castes, Scheduled Tribes and Vimukta Jatis. At the time of scrutiny, the petitioner submitted his caste certificate, certifying that he belongs to "Dhangar" which is Nomadic Tribe. The Returning Officer, vide his order dated 19th March, 2002, rejected the nomination of the petitioner, on the ground that, since election was being conducted as per the election programme published by the Collector, which did not provide for reservations for Nomadic Tribes and since the petitioner did not belong to Scheduled Castes, Scheduled Tribes or Vimukta Jatis; he was not eligible to contest from reserved constituency. Aggrieved by the rejection of his nomination, the petitioner approached the Collector, Washim vide representation dated 23rd March, 2002, pointing out the provisions of amended Section 73-B

and requesting him to stay the election programme. Since the Collector, Washim did not respond to the representation of the petitioner, the petitioner filed the present petition on 2nd April, 2002.

8. This Court vide its order dated 5th April, 2002, after hearing the petitioner and the counsel for the caveators, granted Rule and also an interim order in terms of prayer Clause (C). The net result of the interim order was, stay to the entire election programme to the Committee of the said society. Aggrieved by the interim order passed by this Court, the respondent Nos. 5 to 18 who claim to have been declared elected as there was no contest, approached the Hon'ble Supreme Court by filing SLP. Their Lordships of the Apex Court were pleased to pass the following order on 15-7-2002.

"Permission to file SLP granted. We are not inclined to interfere with an interim direction of the High Court when the Writ Petition is itself pending. The SLP stands dismissed. The High Court is requested to dispose of the pending Writ Petition early."

Thereafter, a Civil Application was filed by the aforesaid Respondent Nos. 5 to 18 praying for disposal of the matter at the stage of the order matter or vacating the stay, by allowing the elected directors to manage the Co-operative Society, till the decision of the present petition. This Court by its order dated 14th August, 2003, rejected the said Civil Application. However, this Court observed that, in view of the order passed by the Apex Court dated 15th July, 2002, the petition deserves to be heard expeditiously. That is how, the present petition has come up for hearing before us.

9. We have heard Shri P. C. Madkholkar, learned Counsel for the petitioner, Smt. B. H. Dangre, learned AGP for the respondent Nos. 1 to 3 and Shri R. L. Khapre, learned Counsel for the respondent Nos. 5 to 18.

10. Shri Madkholkar, learned Counsel for the petitioner has raised following three propositions.

(i) That, in the absence of inclusion of statutory four seats, as provided in amended Section 73-B, the entire election programme is vitiated and is liable to be set aside.

Shri Madkholkar places reliance upon the judgment of the Apex Court in the case of Babaji Kondaji Garad Vs. Nasik Merchants Co-operative Bank Ltd., Nasik and Others, in support of this proposition.

(ii) That, there is no question of equity, since right to election is neither a fundamental right nor a common law right and since it flows only from statutes, it has to be within four corners of the statute, (iii) That, in the event the first two propositions are accepted and if fresh elections are directed to be held in 2004, then the elections will have to be held on the basis of the provisional voters' list, as on 30th June, 2003.

11. In reply, Shri Khapre, learned Counsel submits that, the judgment of the Apex Court in the case of B. K. Garad v. Nasik Merchants Co-operative Bank Limited (cited supra) considered the position which existed prior to amendment of Section 73 of the said Act. According to the learned Counsel, in view of the amendment to Section 73, by Section 2 of Maharashtra Act 37 of 1986, by which Sub-section (3) was inserted, the committee can be duly constituted, on the election of two third of total number of members. He submits that, since respondents Nos. 5 to 18 have been declared elected unopposed and since they constitute more than two third of total number of members, a committee of the society could be duly constituted. Shri Khapre further submits that, under Rule 16 of the said Rules, the Collector is empowered to amend the election programme. As such, this Court can issue necessary directions to the Collector, so as to suitably amend the election programme, for holding election of four members of reserved category as contemplated under the provisions of amended Section 73-B.

12. Shri Khapre, the learned Counsel, relied upon the judgment of the Division Bench of this Court in the case of Ramesh Ganpati Thakur and Anr. v. State of Maharashtra and Ors. (reported in 2002(5) M.L.J. 283 = 2002 (1) AMR 815) in support of his submissions.

13. Smt. Bharti Dangre, learned Assistant Government Pleader, drew our attention to Rule 30 of the said Rules, which provides that if the number of candidates in the constituency, whose nomination have been accepted is equal to or less than the number of seats to be filled, the Returning Officer shall forthwith declare such candidate or all the candidates, to be duly elected to fill the seat or the relevant number of seats, as the case may be. She submitted that accordingly, the Returning Officer had declared the result of uncontested election.

14. In order to appreciate the rival contentions, it will be necessary to survey the history of various amendments enacted to the provisions of the said Act. Section 73 of the said Act, provides vesting of the management of every society, in a Committee to be constituted, in accordance with the provisions of the Act and the Rules and the Bye laws. Section 73(G) of the said Act, provides that the election of the members of the committee (and the officers of the committee), of the societies, of the categories mentioned therein shall be subject to the provisions of Chapter XI-A and shall be conducted in the manner laid down by or under that Chapter. Such societies are called "specified societies" and the elections of the said society are held under the provisions of the said Rules.

15. Section 73-B of the said Act, was introduced by amending Act 27/1969. Original Section 73-B reads thus :--

"On the Committee of such society or class of societies as the State Government may, by general or special order, direct, two seats shall be served, one for the members who belong to the scheduled castes or scheduled tribes and one for the weaker section of the members who have been granted loans from the society of

an amount not exceeding Rs. 200/- during the year immediately preceding. If no such persons are elected or appointed, the committee shall co-opt the required number of members on the committee from amongst the persons entitled to such representations".

Section 73-B was substituted by amendment vide Act No. 45 of 1983. Substituted Section 73-B reads as under :--

"73-B (1) -- Notwithstanding anything contained in this Act or in the rules made thereunder or in any bye-laws of any society, on the committee of such society or class of societies as the State Government may, by general or special order, direct, two seats shall be reserved, -

(a) one for the members belonging to the Scheduled Castes or Scheduled Tribes; and

(b) one for the members belonging to the weaker section.

(2) The two reserved seats referred to in sub-sec. (1), shall be in addition to the strength of the members of the committee of such a society or class of societies.

(3) Any individual member of the society, or any elected member of the Committee of a member society, or any member of the committee of a member society, whether elected, co-opted or appointed under this section, belonging to the Scheduled Castes or Scheduled Tribes, or as the case may be, weaker section, shall be eligible to contest the election to a reserved seat and every person who is entitled to vote at the election to the Committee shall be entitled to vote at the election to any such reserved seat.

(4)(a) If no person is elected to any of the two reserved seats, the committee shall, within fifteen days from the date of the first meeting of the Committee after election, co-opt a member, or as the case may be, members on the committee from amongst the persons entitled to contest the election under Sub-section (3).

(b) Where there is a failure of the Committee to so co-opt a member, or as the case may be, members, the Registrar shall appoint a member, or as the case may be, members on the Committee from amongst the person entitled to contest the election to the reserved seats under Sub-section (3). Explanation. -- For the purposes of this section --

(a) a general or special order, if any, issued by the State Government u/s 73-B as it existed before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1983 shall be deemed to have been issued under Sub-section (1) of this section and shall continue to be in force until duly repealed or amended;

(b) the expression "Scheduled Castes" includes "Nav-Budhas", and the expression "Scheduled Tribes" includes "de-notified Tribes and Nomadic Tribes";

(c) the expression "members belonging to weaker section" means a member or such class of members as the State Government may by general or special order from time to time, declare."

Sub-section (2) of Section 73-B was further amended by inserting (unless where the bye-laws of the society already provide for the reserved seats) in the said sub-section, by Maharashtra Act 18/1984. Thus the amended Sub-section (2) of Section 73-B reads as under :--

"(2) The two reserved seats referred to in Sub-section (1), shall (unless where the bye-laws of the society already provide for the reserved seats), be in addition to the strength of the members of the committee of such a society or class of societies."

By Maharashtra Act 20 of 1986, Sub-section (3) was added, to Section 73 of the Maharashtra Co-operative Societies Act, which reads thus :

"[(3) (a) Notwithstanding anything contained in this Act or the rules made thereunder or in the bye-laws of any society or any other law for the time being in force, in a general election of members of the committee of a society, on the election of two-thirds or more number of members, the returning officer or any other officer or authority conducting such election shall within seven days after the declaration of results of the election of such members, or where such election is held before the date of commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1986, and such number of members have been elected but the committee has, for whatever reason, not been so far constituted, forward their names together with their permanent addresses to the Registrar, who shall, within fifteen days from the date of receipt thereof by him publish or cause to be published such names and addresses by affixing a notice on the Notice Board or at any prominent place in his office; and upon such publication, the committee of the society shall be deemed to be duly constituted. In determining two-thirds of the number of members, a fraction shall be ignored :

Provided that, such publication shall not be deemed -

(i) to preclude the completion of election of the remaining members and the publication of their names and permanent addresses of the elected members likewise as and when they are available; or (ii) to effect the term of the office of members of the committee under the Act.

(b) The names of the remaining members, after they are elected (together with their permanent addresses), may also thereafter be likewise published by the Registrar.]"

16. By further amendment to Sub-section (1) and Sub-section (2) of Section 73, the number of seats reserved for Scheduled Castes, Scheduled Tribes, Other Backward Classes, de-notified Tribes, Nomadic Tribes or Special Backward Classes and Weaker sections has been increased to four from two. It further appears that, the constituency which was reserved for Scheduled Castes,

Scheduled Tribes and Vimukta Jatis has been bifurcated into two constituencies, one for a member belonging to Scheduled Castes or Scheduled Tribes and another for members belonging to de-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes. One more constituency for member belonging to Other Backward Classes has also been added. Now amended subsections (I) and (2) of Section 73-B read thus :--

"(1) Notwithstanding anything contained in this Act or in the rules made thereunder or any bye-laws of any society, on the committee of such society or class of societies as the State Government may, by general or special order, direct, (four) seats shall be reserved. -

(a) one for the members belonging to the Scheduled Castes or Scheduled Tribes ;

[(a-1) one for the members belonging to the Other Backward Classes ; (a-2) one for the members belonging to the De-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes; and];

(b) one for the members belonging to the weaker sections. (2) The [four] reserved seats referred to in Sub-section (1), shall [unless where the bye-laws of the society already provide for the reserved seats,] be in addition to the strength of the members of the committee of such a society or class of societies."

17. From the perusal of the aforesaid amendments, incorporated from time to time, the position that emerges is as follows. By the original Section 73-B, two seats were reserved, one for the members who belong to the Scheduled Caste or Scheduled Tribe members and the another one for the members belonging to weaker sections. In the original Section 73-B, the reserved seats as well as the general seats, formed the same constituency. The Apex Court in the case of B. K. Garad v. Nasik Merchants Co-operative Bank Limited (cited supra), has considered the provisions as existed then. It will be clear from the perusal of the Section 73-B as it then existed that two seats had to be reserved for the aforesaid categories, from the existing strength .Thus, the candidates from open category as well as reserved category were to contest from the same constituency and that there were no separate constituencies as they exist now. In that view of the matter, the Apex Court held that, it was mandatory to specify the election programme that there are reserved seats to be filled in by election and the class in whose favour reservation is made. The Apex Court, therefore, held that the failure to hold election in accordance with the Act including Section 73-B, would vitiate the whole election programme, from its commencement. The Apex Court further held that, it would all the more be so, because the failure to hold the election according to the provisions of the Act, which denies the opportunity to the persons, who are eligible to get elected, to the reserved seats, would certainly vitiate the whole election programme.

18. However, from the aforesaid discussion, it would be clear that, Section 73-B has undergone a major change. The amended Section 73-B, as amended by Act No. 45 of 1983, provided a different constituency :

(i) one for members belonging to the Scheduled Castes or Scheduled Tribes; and

(ii) one for the members belonging to the weaker section. From the Explanation to amended Section 73-B, it is clear that the expression "Scheduled Tribes" includes de-notified Tribes and Nomadic Tribes. Thus, the members belonging to de-notified Tribes and Nomadic Tribes also form the part of the constituencies reserved for the members belonging to Scheduled Castes and Scheduled Tribes. Not only this Sub-section (2) of Section 73-B, also provides that two reserved seats referred to in Sub-section (1), shall be in addition to the strength of the members of the committee of such society or class of society. Thus, it is clear that, by the amended Act of 1983, two different constituencies were carved out, one for members belonging to Scheduled Castes or Scheduled Tribes and the another for the members belonging to Weaker section. Not only this, but it was also provided that, these two reserved seats shall be in addition to the strength of the members of the Committee. Thus under the unamended provisions, which were under consideration, before their Lordships of the Apex Court, the two seats to be reserved, were amongst the existing strength of members of the Committee and formed part of the same constituency; the seats under the amended provisions were different constituencies and were in addition to the strength of the members of the Committee.

19. By Maharashtra Act No. 18 of 1984 in Sub-section (2) the words "unless where the bye-laws of the society already provide for the reserved seats" were inserted. Thus, it was made clear that, whenever the bye-laws provide for reservation of two seats, for the aforesaid categories, it was not necessary to have additional seats. The legislative mandate, was thus clear, that, two seats were required to be reserved, one for members belonging to Scheduled Castes or Scheduled Tribes and the another for members belonging to weaker section and that they were to form the separate constituencies. The objects and reasons for amending Section 73-B by way of Act 45 of 1983 would also make the legislative intent clear. It would appear therefrom, that the legislative intent of substituting original Section 73-B, by amended Section 73-B, was to carve out different constituencies for members belonging to Scheduled Castes or Scheduled Tribes and Weaker sections. It would also appear that interpretation of Section 73-B, by Their Lordships of the Apex Court, in the case of B. K. Garad was also one of the reasons, for substituting original Section 73-B, with new provisions.

20. By Maharashtra Act No. 6 of 2002, by which Section 73-B has been amended, the Legislature has provided for four reserved seats instead of two. Vide the said Amendment, the "Explanation "B" has been further amended and the words "and "the expression" "Scheduled Tribes" includes "de-notified Tribes and Nomadic Tribes" has been excluded. Thus, a separate constituency for the members belonging to Scheduled Castes or Scheduled Tribes has been carved out. A new constituency for the members belonging to de-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes has been carved out. One more new constituency for the members belonging to Other Backward

Classes has been created, whereas the constituency for the members belonging to the Weaker sections remains as it is.

21. The position, therefore, as it stands today, is:

(a) four constituencies have been carved out for:

(i) members belonging to Scheduled Caste, Scheduled Tribe;

(ii) members belonging to de-notified Tribes, Nomadic Tribes and Special Backward Classes;

(iii) members belonging to weaker section; and

(iv) members belonging to Other Backward Class;

(b) that these constituencies are separate constituencies and are in addition to the existing strength of the committee; and

(c) that any member belonging to reserved category, irrespective of the constituency to which he belongs, can contest the election, from reserved category and every voter, irrespective of this constituency and category, is entitled to cast his vote at the election of reserved seat.

22. It is thus clear that, though, it would be more appropriate to have elections of all the constituencies simultaneously, there would be no difficulty, even if the elections, to the reserved category are held separately. Our this view, is fortified by two judgments of the Division Benches of this Court, in the case of Vishwanath and Another Vs. The Collector, Wardha and Others, and Ramesh Ganpati Thakur and Anr. v. State of Maharashtra and Ors. (cited supra).

23. At this stage, it would also be necessary, to refer to the provisions of Sub-section (3) of Section 73, of the said Act, which were inserted by Maharashtra Act 37 of 1986. Perusal of the aims and objects behind the said amendment would reveal that, the legislature, has considered the difficulties, in certain eventualities, when the elections of the majority of the members, are declared and in case of election of some members, there was either a dispute which resulted into litigation or there was some delay in declaring their results; and consequently, the committee could not be constituted, for want of election of all the members of the Committee. It was thus considered imperative, that in such a situation, where majority of the results of the elections of the members of the Committee were declared, the Committee should be constituted, with a view to avoid any hiatus in the management of the society. The legislative intent, of amending Section 73, by introducing Sub-section (3), is thus clear, that whenever the results of more than two-thirds members of the committee are declared, the committee would be duly constituted committee.

24. According to Shri Madkholkar, since Section 73-B begins with a non obstante clause, it will have an overriding effect, over all other provisions of Act and as such the elections which are held in contravention of Section 73-B will be vitiated

in entirety. In our view, the said submissions, is without substance. Both Section 73-B as well as Sub-section (3) of Section 73-A, begin with non-obstante clause. Section 73-B deals with the provisions for reservation of seats, for certain category of members, whereas, Sub-section (3) of Section 73, deals with the difficulty that may arises in constitution of the Committee, when the result of the election of some of the seats cannot be declared, due to certain eventualities. No doubt, Section 73-B will have an overriding effect, over all other provisions, relating to providing reservation of seats and it will be mandatory for all the specified societies, to provide reservation, as amended by Section 73-B for the categories provided therein. However, Sub-section (3) of Section 73, will have an overriding effect, in the matter of constitution of committee of the society. It is a settled law, that, when there is conflict between two provisions, both having a non-obstante clause, it is to be resolved on consideration of purpose and policy underlying the enactment and the language used therein. The following observations of the Apex Court in the case of Ashoka Marketing Ltd. and another Vs. Punjab National Bank and others, can be usefully referred to :

"...in the case of inconsistency between the provisions of two enactments, both of which can be regarded as special in nature, the conflict has to be resolved by reference to the purpose and policy underlying the two enactments and the clear intendment conveyed by the language and the relevant provisions therein ."

It is clear that the purpose and policy underlying the provision of Section 73-B and Sub-section (3) of Section 73-A are totally different. Both of them act in different fields. As such, we see no conflict, in them.

25. Referring to the next submission of Shri Madkholkar, that there is no question of equity and since the right to election flows from the statute, it has to be within four corners of the statute; there can be no quarrel with the said proposition. However, the question is, as to whether, it is really necessary to set aside the entire election programme, as submitted by Shri Madkholkar or as to whether, it is possible to direct the elections, to be held for the four reserved constituencies as provided u/s 73-B, without disturbing the election already held.

26. It would also be necessary, to take into consideration the conduct of the present petitioner. The election programme was notified by the Collector from 11-3-2002. The last date of filing the nomination was 18-3-2002. The date of scrutiny was 19-3-2002. The date of withdrawal was 4-4-2002. The petitioner was very much aware on 11th March, 2002, itself that the reservation, as required under amended Section 73-B of the Act was not provided. But, he chose not to approach this Court diligently. Had the petitioner, approached the Court immediately, the rights which have accrued in favour of the elected candidates, might not have accrued. However, the petitioner has approached this Court belatedly on 2nd April, 2002 and the interim order was passed by this Court on 5th April, 2002. By this date, the respondent Nos. 5 to 18, were already declared elected by the Returning Officer, under the provisions of Rule 30. We, therefore, do not feel that, it would be in the interest of justice, to set aside the entire

election programme, since valuable rights have been accrued, in favour of the persons who have been elected unopposed. In any case, no prejudice would be caused to the petitioner, since he is seeking election from a constituency, reserved for the members belonging to the de-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes. The another reason for not setting aside the election programme which weighs with us, is that, an enormous expenditure will have to be incurred, if the entire election programme, is set aside and de novo election programme is directed to be held for all the posts. As already discussed hereinabove, this Court in the cases of Vishwanath and Anr. v. The Collector, Wardha and Ramesh Ganapati Thakur v. State of Maharashtra (cited supra) has held that, it is permissible, to hold separate election for the reserved post.

27. The next submission of Shri Madkholkar, is that, in the event, this Court holds that the entire programme is liable to be set aside as the election held on the basis of provisional voters" list, as on 20th June, 2003. In view of the aforesaid view, that we have taken, it is really not necessary to deal with the said contention. However, in view of the law laid down by the Apex Court in the case of Ramachandra Ganpat Shinde and another Vs. State of Maharashtra and others, , the said question is no more res integra. The elections are required to be held, on the basis of provisional voters" list for the year, immediately preceding the year, in which the elections were due to be held.

28. For the aforesaid reasons, we are not inclined to quash the entire election programme. However, the election of respondent No. 18 who has been elected from the constituency, reserved for a member belonging to Scheduled Caste, Scheduled Tribe and Vimukta Jati, will have to be set aside, since the said constituency was not in accordance with the provisions of Section 73-B of the said Act, as amended on 23rd April, 2001. Moreover, the said respondent has already filed an affidavit that he has no objection for setting aside his election.

29. The respondent, Collector is, therefore, directed to hold the election for electing the members from the three reserved categories namely, (i) Scheduled Castes or Scheduled Tribes, (ii) de-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes; and (iii) Other Backward Classes, from the stage of filing of nomination papers, in accordance with law. In view of provisions of Section 73(3) of the said Act read with Rule 30, the committee is entitled to be constituted, if the result of election of two third number of members is declared. However, in view of the fact that the committee is not constituted, for a period of more than one and half years, as interim order was operating in favour of petitioner and in order to balance the equities, of members belonging to General category and reserved categories, we are inclined to direct, that the committee of the said Society will not be constituted and its first meeting will not be held, till election of Reserved seats is complete.

30. The petition is, therefore, partly allowed with following directions :--

(i) The election of respondent No. 18, from the constituency reserved for Scheduled Castes, Scheduled Tribes and Vimukta Jatis is quashed and set aside;

(ii) The Collector, Washim is directed to hold election, for electing three members to the Managing Committee of the respondent-society from following constituencies.

(a) Scheduled Castes or Scheduled Tribes;

(b) de-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes; and

(c) Other Backward Classes, from the stage of filing of nomination papers and complete the election programme in accordance with law, as expeditiously as possible,

(iii) First meeting of the Committee shall not be held, till the elections to the aforesaid three reserved posts are held in accordance with law.

31. Rule is made absolute in aforesaid terms. In the facts and circumstances, no order as to costs.