
(1993) 11 BOM CK 0041

In the Bombay High Court

Case No : Writ Petition No. 3008 of 1993

Devendra Kashirao Deshmukh

APPELLANT

Vs

Sub-Divisional Officer, Katol and others

RESPONDENT

Date of Decision : 12-11-1993

Acts Referred:

Maharashtra Co-operative Societies Act, 1960 — Section 12(1), 145, 2, 2(1), 2(1)
Textiles Committee Act, 1963 — Section 2(g)

Citation : (1993) 11 BOM CK 0041

Hon'ble Judges : M.B. Ghodeswar, J; H.W. Dhabe, J

Bench : Division Bench

Advocate : D.K. Deshmukh, for the Appellant; K. Pande, A.G.P. for Respondents Nos. 1 and 2, V.G. Palshikar for Respondent No. 3, B.P. Dharmadhikari for Respondent No. 4 and S.P. Dharmadhikari, for the Respondent

Final Decision : Allowed

Judgement

H.W. Dhabe, J.—The petitioner who is the Chairman of Katol Taluka Sahakari Kharedi Vikri Samiti Limited, Katol, which is a marketing Society, i.e. a Society dealing in marketing of agricultural produce within the area of operation of the Agricultural Produce Market Committee, Katol (for short "A. P. M. C. Katol"), has challenged in this writ petition the orders of the Sub Divisional Officer, Katol, dated 18-10-1993 and 26-10-1993 rejecting the respective objections raised by him to the inclusion of the names of the Chairmen of the respondents 4 and 5 Co-operative Societies in the voters' list prepared by him for the purpose of election as provided in Clause (c) of section 13(1) of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (for short "the A.P.M.C. Act"). He has thus challenged the election programme announced by the Returning Officer A.P.M.C. Katol i.e. the respondent No. 2 on 28-10-1993 for the election from the above constituency u/s 13(1)(c) of the A.P.M.C. Act.

2. The facts briefly are that when the elections for the A.P.M.C., Katol, were due the Sub-Divisional Officer, Katol, i.e. the respondent No. 1 prepared voters' list

for election from the constituency carved out by section 13(1)(c) of the A.P.M.C. Act. He had included the names of four Co-operative Societies in the said voters" list which included the names of the petitioner, the respondent No. 4 and the respondent No. 5. The petitioner, by his Election Application No. 52/M. R. C-81/1993-94 raised an objection before the Sub-Divisional Officer, Katol to the inclusion of the name of the respondent No. 4 Society in the voters" list for election u/s 13(1)(c) of the A.P.M.C. Act on the ground that it was not a marketing society within the meaning of the said section. The said objection was rejected by the Sub-Divisional Officer, Katol, by his order dated 18-10-1993. The petitioner, by Election Application No. 51/M.R.C.-81/1993-94 had also raised objection to the inclusion of the name of the respondent No. 5 Society in the voters" list for election u/s 13(1)(c) of the A.P.M.C. Act on the ground that it was not carrying on any business of processing within the market area of the A.P.M.C. Katol as required by section 13(1)(c) of the A.P.M.C. Act. The said objection was also rejected by the Sub-Divisional Officer, Katol, by his order dated 26-10-1993. The Returning Officer appointed for holding the election to the A.P.M.C. Katol, i.e. the respondent No. 2 thereafter published the election programme for the purpose of election to the said A.P.M.C. u/s 13(1)(c) of the A.P.M.C. Act. The said election programme also contains the names of the voters in the said constituency u/s 13(1)(c) of the A.P.M.C. Act.

3. Feeling aggrieved by the inclusion of the names of the Chairmen of the respondents 4 and 5 Societies in the voters" list for election to the A.P.M.C., Katol from the constituency u/s 13(1)(c) of the A.P.M.C. Act, the petitioner who is also a voter in the said constituency has preferred the instant writ petition challenging the orders of the Sub-Divisional Officer, Katol, dated 18-10-1993 and 26-10-1993 rejecting his objections to the inclusion of the names of the respondents 4 and 5 Societies in the voters list for election u/s 13(1)(c) of the A.M.P.C. Act and consequently also the election programme for the said constituency issued by the respondent No. 2 on 28-10-1993.

4. The principal question which arises for consideration in the instant writ petition is about the construction of section 13(1)(c) of the A.P.M.C. Act. The learned Counsel for the petitioner has urged before us that according to the scheme of sub-section 1 of section 13 of the A.P.M.C. Act the nature of any of the Co-operative Societies which form some of the constituencies for election to the Market Committee is to be understood in the same sense in which it is understood under the Maharashtra Co-operative Societies Act, 1960 (for short "the M.C.S. Act"). The learned counsel appearing for the respondents 3 to 5 do not seriously contest the above proposition so far as the constituency of the Managing Committees of the Agricultural Credit Societies and Multi-purpose Co-operative Societies is concerned because clause (a) of section 13(1) of the A.P.M.C. Act which carves out the above constituency, from which seven agriculturists are to be elected, in terms, provides that the aforesaid Societies are Societies within the meaning of the M.C.S.Act and the Rules framed thereunder. However, there is serious dispute raised on behalf of the above

respondents about the above proposition canvassed on behalf of the petitioner as regards the construction of Clause (c) of section 13(1) of the A.P.M.C. Act with which we are concerned in the instant writ petition.

5. In support of his above contention, the learned Counsel for the petitioner has urged before us that section 12(1) of the M.C.S. Act provides for classification of Societies and Rule 10(1) of the Rules framed thereunder provides for actual classification. A list of the Societies so classified is required to be then published by the Registrar every three years as provided in section 10(3) of the A.P.M.C. Act. It is the case of the petitioners that the said classification is based upon the principal object of the Co-operative Society. He has then brought to our notice the classification of the Societies made under rule 10(2) of the Rules under the M.C.S. Act to show that the Multipurpose Co-operative Society like the respondent No. 4 stands classified thereunder at Serial No. 8 under the head "Resource Society" and the respondent No. 5 Soot Girni stands classified as a "Processing Society" which classification is at Serial No. 6 under the said Rule 10(1). As regards the respondent No. 5 Society, according to the learned Counsel for the petitioner, although it is a processing Society, for the purpose of section 13(1)(c) of the A.P.M.C. Act, it does not still satisfy its requirement because it does not carry on the business of processing within the market area of the A.P.M.C., Katol.

6. The learned Counsel appearing for the respondents 3, 4 and 5 have urged before us that the phraseology of Clause (c) of section 13(1) of the A.P.M.C. Act is different from the phraseology of Clause (a) thereof and therefore Clause (c) cannot be interpreted in the same manner in which Clause (a) of the said section 13(1) is interpreted. According to them, although by clear expression used in Clause (a) of section 13(1) of the A.P.M.C. Act, it can be said that the class of Co-operative Societies referred to therein have the same meaning as given to them in the M.C.S. Act, the Co-operative Societies referred to in Clause (c) thereof cannot be given such a restricted meaning and have been understood in a wider sense.

7. In appreciating the above submission made on behalf of the respondents 3, 4 and 5, it is necessary to peruse the relevant phraseology used in Clause (c) of section 13(1) of the A.P.M.C. Act which is as follows :

"Chairman of the Co-operative Society doing business of processing or marketing of agricultural produce in the market area.....".

On behalf of the above respondents, emphasis is placed upon the words "Co-operative Society doing business of processing or marketing of agricultural produce in the market area", to show that even though the Co-operative Society in question does not strictly fall in the class of processing society or marketing society as envisaged by Category 1 and Category 6 respectively of Rule 10(1) of the Rules framed under the MCS. Act, such a Co-operative Society can fall within the meaning of the above phraseology used in Clause (c) if it was otherwise

doing the business of processing or marketing of agricultural produce in the market area. In the case of the respondent No. 4 Co-operative Society, it is urged that although it is a Multi-purpose Cooperative Society and is classified as such in the Category No. 8 as a "Resource Society", the said Co-operative Society is doing the business of marketing within the market area of A.P.M.C. Katol since it held a trader's licence from the said A.P.M.C. Katol and makes purchases of Soyabin etc. in the market area of the said A.P.M.C. Katol.

8. As regards the respondent No. 5, the submission on its behalf is that although it had a Soot Girni at Hingna i.e. outside the market area of A.P.M.C. Katol, the respondent No. 5 was purchasing cotton in the market area of A.P.M.C. Katol for which it held a trader's licence from it. It is thus the submission that the respondent No. 5 was doing the business of marketing within the market area of A.P.M.C. Katol. It is also urged in regard to the respondent No. 5 that since it was getting its ginning work done from two other societies within the market area of A.P.M.C. Katol, it was also doing the business of processing within its market area. It is thus urged that the respondents 4 and 5 Co-operative Societies fall within the meaning of the phraseology of "Co-operative Society doing business of processing or marketing of agricultural produce in the market area" used in Clause (c) of section 13(1) of the A.P.M.C. Act.

9. In support of his above submission, the learned Counsel for the respondent No. 5 has relied upon the judgment of this Court in the case of Radhakisan vs. Assistant Collector, 1983 Mh.LJ. 126. We shall advert to the above judgment while actually considering Clause (c) of section 13(1) of the A.P.M.C. Act. As a principle of construction, the learned Counsel appearing for the respondent No. 4 has sought to draw assistance from the judgment of the Supreme Court in the case of State of Kerala Vs. Mathai Verghese and Others, . The question in the said case was whether the expression currency includes a foreign currency. It is difficult to see how the said case is of any assistance in construing Clause (c) of section 13(1) of the A.P.M.C. Act.

10. Before construing the above crucial expression- occurring in Clause (c) of section 13(1) of the A.P.M.C. Act, it may be seen that according to the Scheme of composition of the Market Committee envisaged by section 13(1) of the AP.M.C. Act, the constituencies from which its members are elected are the Co-operative Societies, the Village Panchayats, the traders and commission agents, and the hamals and weighmen operating in the market area. It is pertinent to see that except the expression "Co-operative Society", all the above expressions indicating constituencies from which the members are elected to the Marketing Committee are defined in section 2 of the A.P.M.C. Act. Although the expression "Co-operative Society" is not defined in the A.P.M.C. Act, it is trite to say that it is a Society registered or deemed to be registered under the M.C.S. Act, because the Co-operative Society contemplated for the purposes of the A.P.M.C. Act, must be a definite and a genuine Society recognised by law. It is pertinent to see in this regard that section 145 of the M.C.S. Act prohibits the use of the word "Co-

operative" unless the Society is registered or deemed to be registered under the M.C.S. Act. It is further pertinent to see that so far as marketing or processing society is concerned there is definite evidence in rule 2(iv) of the Rules framed under the A.P.M.C. Act to show that co-operative marketing or processing society is defined therein to mean a Co-operative Society registered or deemed to be registered as such under the M.C.S. Act which holds a licence for marketing of declared agricultural produce or for operating as processor.

11. The next question to be considered in construing the above phraseology in Clause (c) of section 13(1) of the A.P.M.C. Act is the meaning to be given to the words "doing business" used therein. It is pertinent to see that the business envisaged under Clause (c) of section 13(1) of the A.P.M.C. Act is a business of marketing and processing of agricultural produce which the Co-operative Society principally carries in the market area of the A.P.M.C. in question. It is further pertinent to see that the requirement of the aforesaid Clause (c) is that the Co-operative Society, must be doing the said business of marketing and processing of agricultural produce within the market area.

12. It is held by this Court in the case of Radhakisan vs. Assistant Collector, 1983 Mh.L.J. 126, that by merely doing something for ultimately doing the business of processing or marketing of agricultural produce, it would not mean that the Co-operative Society was doing the business of processing or marketing. In the said case, the preliminary steps were taken by the Co-operative Society in question by obtaining registration of the said Society and the licence in its name by collecting capital, and by making an application to the Maharashtra Industrial Development Corporation for securing a plot for installation of the machinery, by obtaining a report about the feasibility of its Sut Girni from its Federation, and by making an application for industrial licence under the relevant Act. It was held by this Court in the above facts and circumstances of the said case that by taking the above steps for erection of the Spinning Mill, the Co-operative Society in question was not doing the business of processing within the meaning of section 13(1)(c) of the A.P.M.C. Act. It is clear from the above judgment that what is emphasized in Clause (c) of section 13(1) of the A.P.M.C. Act is the fact of actually doing the business of marketing or processing in the market area and not mere registration of the Co-operative Society under the A.P.M.C. Act.

13. It appears from the scheme of the A.P.M.C. Act that the Cooperative Sector is vitally concerned with the question of regulation of marketing of agricultural produce for which reason in the composition of the Marketing Committee major representation is given to the representatives of the Co-operative Societies which indulge in the activities relating to the marketing of agricultural produce as is clear from Clauses (a), (c) and (f) of the A.P.M.C. Act. This is also clear from the Constitution of the State Marketing Board u/s 39B of the A.P.M.C. Act which shows that the Minister for Co-operation and Minister of State for Co-operation are its Chairman and Vice-Chairman. It is pertinent to note that the aforesaid Board is an apex body which co-ordinates the activities of the Marketing

Committees and exercises other powers and performs other functions as enumerated in section 39J of the A.P.M.C. Act.

14. As hereinbefore shown for the purpose of the A.P.M.C. Act, a Co-operative Society is a Society registered or deemed to be registered under the M.C.S. Act. Further, there is legislative material in the said Act and the rules framed thereunder to determine what the nature and the business of a particular Society registered under the said Act is. Section 2 of the said Act defines certain expressions such as "Agricultural Marketing Society" in its Clause (1), "Processing Society" in its Clause (22) and "Resource Society" in its Clause (25) which are useful in understanding the meaning of the expressions used in section 13(1) of the A.P.M.C. Act. What is more useful for the proper understanding of the meaning and the nature and business of such Societies is section 12(1) of the M.C.S. Act with Rule 10(1) framed thereunder as the said rule gives the classification of various societies and indicates their nature and business.

15. Turning thus to the definition of the expression "Agricultural Marketing Society" in section 2(1) of the M.C.S. Act, it is defined as a Society the object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production and less than three-fourths of the members of which are agriculturists, or societies formed by agriculturists. In classification made under Item No. I of Rule 10(1) framed under the M.C.S. Act, a marketing society is shown as a sub-class of agricultural society and examples of such societies given therein show that all purchase and sale Unions are marketing societies of agricultural produce.

16. As regards the "Processing Society", a processing society is defined in section 2(22) of the M.C.S. Act as a Society the object of which is the processing of goods. The classification of such processing society is made under Item 6 of Rule 10(1) which shows that agricultural processing society is its sub-class and the examples of such societies are the societies which process agricultural produce like Co-operative Sugar Factories and Oil Mills.

17. We may also refer to the definition of the expression "Resource Society" given in section 2(25) of the M.C.S. Act according to which a resource society means a society the object of which is to obtain for its members on credit goods or services required by them. In Rule 10(1) of the Rules framed under the M.C.S. Act Item No. 8 deals with the classification of such a society. Credit Resource Society is a sub-class of such resource society and the examples of such resource society are Agricultural Credit, Thrift Urban Credit and Salary Earners' Societies. Agricultural credit society is referred to in section 13(1)(a) of the A.P.M.C. Act. The other sub-class of a resource society as shown in Rule 10(1) is of Service Resource Society, the examples of which are Service Co-operatives and Multipurpose Co-operative Societies. A Multipurpose Co-operative Society is also referred to in section 13(1)(a) of the A.P.M.C. Act. It is clear from the above sub-classification that a Multipurpose Co-operative Society is essentially a service resource society.

18. It is a well known canon of construction that a Statute can in a proper context be interpreted by reference to the earlier Statute. Maxwell in his book on Interpretation of Statutes (12th Edn.) has observed at pp. 64-66 that previous legislation may be relevant to the interpretation of later Statutes in two ways. The second of the two ways quoted at Page 66 is as follows :

"Light may be thrown on the meaning of a phrase in a Statute by reference to a specific phrase in an earlier Statute dealing with the same subject matter."

Reliance for the above principle is placed upon the judgment in the case of Registrar of Restrictive Trading Agreements vs. W. H. Smith and Son Ltd., (1968) I WIR 1541 (see P. 1552).

19. The Supreme Court has applied the above canon of construction in the case of Sirsilk Ltd. Vs. Textiles Committee and Others, . The question in the said case was whether Rayon and Nylon Yarn were yarn of "artificial silk" within the meaning of section 2(g) of the Textiles Committee Act, 1963. Answering the said question in the affirmative, the Supreme Court has relied upon the entries in the First Schedule of the Industries (Development and Regulation) Act, 1951, which was an earlier Statute and which was held to be pan materia with the above Act because the objects of the two Acts were the same viz. to promote and to assist inter alia the development of the Textile Industry. It is also held by Lord Shaw in the case of Lenhons vs. Gobson and Howes Ltd., (1919) AC 709 (PC) 709 at pp 711-712 that in the absence of any context indicating a contrary intention, it can be presumed that the legislature intended to attach the same meaning to the same words when used in a subsequent Statute in a similar connection.

20. In the instant case, it is clear that so far as the Society constituencies in Clauses (a) and (c) u/s 13(1) of the A.P.M.C. Act are concerned, the concept of the Co-operative Societies referred to therein is as contained in the MCS. Act which is a general enactment dealing inter alia with creation of various types of Co-operative Societies and their orderly development on co-operative principle. It is clear from the objects and reasons of the M.C.S. Act that the co-operative movement in the State has assumed an influential and a determinant role in the transformation of the rural economy and life in all walks thereof. A co-operative movement is an economic movement, but with a moral background and high ideals for the protection of the poor and the weak by uniting them into organisation known as a co-operative society which is not a charitable but a business organisation run in a business like manner for the benefit of its members. It thus helps the socio-economic development of the weaker sections of the community. The A.P.M.C. Act is likewise a socio-economic measure enacted to protect the sellers of agricultural produce, who are in our country mostly rural people and who are unorganised in their selling activities, by regulating marketing activities so as to curb exploitation of the sellers of agricultural produce and to ensure them a fair price which is also a reasonable price to the buyer of the agricultural produce. It is material to see that promotion of co-operative marketing of agricultural produce is one of the objects of the

A.P.M.C. Act as is clear from section 37(1)(s) thereof which permits the market fund to be expended upon the above object.

21. It is in the above sense that the purpose or object of both enactments is the same and, therefore assistance can be taken from the provisions in the M.C.S. Act to ascertain the meaning of the expression used in section 13(1)(c) of the A.P.M.C. Act. According to Statutes and Statutory Construction, Vol. 2 p. 535, 3rd Edn. by Sutherland Statutes are considered to be in pan materia to pertain to the same subject-matter when they relate to the same person or things, or to the same class of persons or thing or have the same purpose or object

22. It is, however, urged on behalf of the respondents 3 to 5 that since the language of Clause (c) of section 13(1) of the A.P.M.C. Act is different from the language used in Clause (a) thereof the expressions used in Clause (c) cannot be given the same meaning as they are understood in the M.C.S. Act. It is pointed out that Clause (a) of section 13(1) of the A.P.M.C. Act in terms by reference incorporates the meaning of the expressions "Agricultural Credit Society" and "Multipurpose Co-operative Society" as given to them under the M.C.S. Act, whereas no such phraseology is used in Clause (c) thereof in which what is emphasised is "co-operative society doing business of processing or marketing of agricultural produce in the market area".

23. It is a well settled canon of construction that change in language is not always indicative of a change in construction. The alteration in the language in a later provision may be the result of many other factors. [See *Hadley vs. Perks*, (1866) L. R. 1 QB 444 p. 457; *Lawless vs. Sullivan*, (1881) 6 AC 373 (PC) p. 383; *Hopes vs. Hopes*, (1948) 2 All ER 920 p. 925; *Lord Howard de Walden vs. IRC*, (1948) 2 All ER 825 (HL)]. It is observed by Lord Uthwatt in the last of the above cited cases that no alteration in meaning by alteration in language can result unless, (1) the requirements of the English language demand it, (2) these requirements permit it and sense of the Section demands it. Looking to the scheme and object of the A.P.M.C. Act hereinbefore referred to we do not think that any change of construction is intended in Clause (c) of section 13(1) of the A.P.M.C. Act for not construing the expression "Co-operative Society doing business of processing or marketing" in accordance with the concept of such processing or marketing Co-operative Societies under the M.C.S. Act.

24. Careful scrutiny of section 113(1)(a) shows that in creating a constituency for Co-operative Societies it includes those Co-operative Societies which fall under item 8 in rule 10 of the rules framed under the M.C.S. Act, viz. "Resource Societies" because the Agricultural Credit Societies and Multi-purpose Co-operative Societies are both "Resource Societies" covered by the said item. The definition of the expression "Resource Society" given in section 2(25) of the M.C.S. Act shows that it is a society the object of which is to obtain for its members on credit, goods or services required by them. It is thus clear that representation u/s 13(1) of the A.P.M.C. Act is sought to be given upon the Market Committee to the representations of the Resource Societies referred to

therein.

However, the broad scheme of section 13(1)(c) of the A.P.M.C. Act shows that it intends to give representation upon the Market Committee to the representations of the Co-operative Societies which are essentially Processing and the Marketing Societies doing business in the Market Area of the Market Committee in question. When a Multi-purpose Society is expressly included in and is separately given representation upon the Market Committee u/s 13(1)(a) of the A.P.M.C. Act, it cannot be said to be intended by the legislature that it should get further representation upon the Market Committee under clause (c) of section 13(1) of the Act as a Marketing Society also because it makes purchases of certain agricultural produce in the Market area of the Market Committee in question for its Members or for its principal business.

25. It is in the light of the legislative material and guidance provided by the M.C.S. Act that we now proceed to consider the question as to what the nature of the business of each of the respondents 4 and 5 Co-operative Societies is which it carries on in the market area of the A.P.M.C. Katol. In support of their case, the respondents 4 and 5 have filed their Bye-Laws.

26. Turning to the case of the respondent No. 4 Society, it is pertinent to see that the respondent No. 4 Society being a multipurpose Co-operative Society is classified and is registered as a "Resource Society" under item 8 of rule 10 framed under the M.C.S. Act. Sub-clause (c) of the said item 8 shows that it is a "Service Resource Society". Perusal of Bye-Law No. 3 of the Bye-Laws of the respondent No. 4 Society shows that it is formed with the principal object of promoting the economic welfare of its members for which it would undertake multifarious activities on co-operative basis as provided in clauses 1 to 16 thereof.

27. The learned Counsel for the respondent No. 4 has however urged that so far as the APMC Katol is concerned, the respondent No. 4 is Marketing Society. In support of his above submission he has relied upon clause 7 of the said Bye-Law No. 3 to show that one of the activities of the said Society is to undertake the work of sale of agricultural and other produce and to do all other work relating thereto. He has also urged on the basis of the written submissions filed on behalf of the respondent No. 4 Society that the said Society is making purchases of various commodities like soyabin, Jawari etc. from the Market Yard of the A.P.M.C. Katol and that it has paid large sums as Market fees to the said Marketing Committee. He has further relied upon the Trader's Licence issued to the respondent No. 4 Society by the A.P.M.C Katol.

28. To appreciate the above submission made on behalf of the respondent No. 4, it is first necessary to understand the concept of a "Marketing Society" under the M.C.S. Act. As hereinbefore referred to, a Marketing Society is an "Agricultural Society" as shown in item No. 1 of rule 10 of the rules framed under the M.C.S. Act. The example of such societies given in the said item No. 1 shows that all purchase and sale Unions are Marketing Societies of Agricultural Produce. An

"agricultural marketing Society" is defined in section 2(1) of the M.C.S. Act as a Society the object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production and not less than three fourths of the Members of which are agriculturists, or Societies of Agriculturists. However, there is an intrinsic evidence in the rules framed under the A.P.M.C. Act in which in Rule 2 (iv) the expression Co-operative Marketing or Processing Society is defined to mean a Co-operative Society registered or deemed to be registered as such under the Maharashtra Co-operative Societies Act, 1960 which holds a licence for marketing of declared agricultural produce or for operating as processor.

29. It is difficult to see how the respondent No. 4 Society can be said to satisfy the above concept of Marketing Society and can be said to be doing business of marketing by making purchases for its Members of certain agricultural produce such as Soyabin, Jawari etc. It is therefore, clear that when the respondent No. 4 Society is not a Marketing Society, in accordance with the concept of such a Society under the M.C.S. Act, merely because, it has been granted a Trader's Licence, presumably because it makes purchases of certain agricultural produce in the Market area of A.P.M.C. Katol it would not mean that it is doing the business of marketing within the meaning of clause (c) of section 13(1) of the A.P.M.C. Act. As already pointed out, the respondent No. 4 is admittedly a multi-purpose Society covered by section 13(1)(a) of the A.P.M.C. Act and is not registered as a Marketing Society under the M.C.S. Act. For all these reasons, it cannot be said that the said Society is covered by clause (c) of section 13(1) of the A.P.M.C. Act, for representation upon the Marketing Committee from the Constituencies carved out by the said clause (c) of section 13(1) of the A.P.M.C. Act.

30. Turning to the case of the respondent No. 5 Society, it is admittedly a Sut Girni situated at Hingna i.e. outside the market area of the A.E.M.C. Katol. Bye-law No. 7 of the Bye-laws of the said Society gives its objects. As per the said Bye-law No. 7, its object is to carry on the business of spinning and selling of yarn to the weavers and to others with the primary purposes of procuring the best possible price to the cotton of the grower members, consistent with the economic working of the Girni. It is for the purpose of attaining the above objects, that the respondent No. 5 Society undertakes various activities as provided in clauses (a) to (n) of the said Bye-Law No. 7. What is relevant for the purpose of the instant petition is that to achieve the above primary object, the respondent No. 5 Society, as provided in clause (b) of Bye-Law No. 7, makes purchases of cotton and/or manmade fibre and carries on ginning, spinning, sizing activities. The said clause (b) of Bye-Law No. 7 also provides that the respondent No. 5 can sell the finished material so manufactured and can also procure, whenever, possible subject to Government policy in this behalf, cotton from grower members on pooled rate.

31. There is no dispute that the main activity of the respondent No. 5 Society is

spinning and weaving of cotton into yarn which is a processing activity within the meaning of clause (c) of section 13(1) of the A.P.M.C. Act. However, it is urged on behalf of the petitioner that the said activity of spinning and weaving is carried on by the respondent No. 5 outside the market area of the A.P.M.C. Katol and hence the said Society is not covered within the meaning of Clause (c) of section 13(1) of the A.P.M.C. Act. In reply, what is pointed out on behalf of the respondent No. 5 is that the respondent No. 5 makes purchases of cotton in the market yard of the A.P.M.C. Katol and therefore, it is doing the business of marketing in the market area of the A.P.M.C. Katol within the meaning of clause (c) of section 13(1) of the Act. It is clear that the cotton purchased by the respondent No. 5 society is for its main business of spinning and weaving, which is carried on at Hingna. The respondent No. 5 is registered as a Processing Society under the M.C.S. Act and not as a Marketing Society. For all the reasons given above, looking to the concept of a Marketing Society, under the M.C.S. Act, the respondent No. 5 cannot be said to be a Marketing Society. As regards the question of doing the business of marketing in the market area of A.P.M.C. Katol, it cannot be said that because the raw-material in the shape of cotton is purchased for its main business of spinning and weaving of the yarn, the respondent No. 5 Society can be said to be doing the business of marketing of agricultural produce in the market area of A.P.M.C. Katol within the meaning of clause (c) of section 13(1) of the A.P.M.C. Act. As regards the reliance placed upon the trader's licence granted to the respondent No. 5, as already pointed out in the case of the respondent No. 4 Society, by mere fact that it holds a Trader's Licence from the A.P.M.C. Katol presumably because it makes purchases of cotton in its market area, it cannot be said that it is doing the business of marketing of agricultural produce in the said market area.

32. The learned Counsel for the respondent No. 5 has then urged before us that the respondent No. 5 Society after purchasing the cotton in the market area of the A.P.M.C. Katol, gets it ginned from other Societies in the said market area and therefore, it should be held that it carries on the business of processing within the said market area. Apart from the fact that no such contention is raised in the written submissions filed on behalf of the respondent No. 5, there is no merit in the above submissions made on its behalf. If the work of ginning is got done through other societies, it would mean that the other Societies which are doing the work of ginning cotton of the respondent No. 5 society would be processing Societies doing their business of processing in the market area of A.P.M.C. Katol. By getting the ginning work done through other Societies, it cannot be said that the respondent No. 5 is doing the business of processing in the market area of A.P.M.C. Katol. The above submissions made on behalf of the respondent No. 5 therefore, cannot be given effect to. By no stretch of imagination, it can be said that the respondent No. 5 is doing the business of either processing or marketing within the market area of A.P.M.C. Katol.

33. In the circumstances, it has to be held that the respondents 4 and 5 are not Societies which are doing the business of processing or marketing within the

market area of the A.P.M.C. Katol and the names of their Chairmen and/or representatives cannot be included in the Voters' List prepared for the constituency u/s 13(1)(c) of the A.P.M.C. Act for election to the A.P.M.C. Katol. Their names at serial Nos. 3 and 4 in the Voters' List, have therefore, to be removed.

34. In the result, the instant Petition is allowed. The impugned programme prepared by the Returning Officer on 28-10-1993 for election u/s 13(1) of the A.P.M.C. Act therefore, deserves to be and is set aside. The Returning Officer is directed to prepare a fresh Election Programme in the light of this Judgment for election u/s 13(1)(c) of the A.P.M.C. Act to the A.P.M.C. Katol and hold elections accordingly. The Returning Officer should hold the elections as far as possible within a period of one month from the date of this order.

35. Rule made absolute in the above terms. No costs.