

(2023) 12 BOM CK 0019

In the Bombay High Court

Case No : Writ Petition No. 9207 Of 2022, Civil Application No. 12610 Of 2023

Ramdas Dnyandeo Ghavate & Another

APPELLANT

Vs

State Of Maharashtra Through Its Secretary & Others

RESPONDENT

Date of Decision : 08-12-2023

Acts Referred:

Maharashtra Cooperative Societies Act, 1960 — Section 109

Citation : (2023) 12 BOM CK 0019

Hon'ble Judges : Mangesh S. Patil, J; Neeraj P. Dhote, J

Bench : Division Bench

Advocate : P. S. Talekar, Talker, S. V. Hange, R. R. Nangare

Judgement

1. Heard both the sides for a while.

2. The issue is as to if the appointment of the respondent no.4 as a liquidator has come to an end by the efflux of the statutory period as contemplated under Section 109 of the Maharashtra Co-operative Societies Act, 1960 [for short 'the Act'].

3. It is being brought to the notice that this liquidation process has commenced way back in the year 2005 and still has not been taken to the logical end. The liquidator has been changed from time to time. The incumbent has been appointed in the year 2016.

4. The petitioner is claiming following prayers :

"B) By issuing a writ of qua-warranto or any other appropriate writ, order or direction in the like nature, this Hon'ble Court may kindly be pleased to call upon the respondent No.4 to show as to under what authority he is holding the post of Liquidator with Parner Taluka Sahakari Sakhar Karkhana Ltd. Devibhoyare, Tq. Parner, Dist. Ahmednagar.

"C) By issuing a writ of qua-warranto or any other appropriate writ, order or direction in the like nature, this Hon'ble Court may kindly be pleased to quash

and set aside order of the respondent No.4 as Liquidator with Parner Taluka Sahakari Sakhar Karkhana Ltd. Devibhoyare, Tq. Parner, Dist. Ahmednagar, vide order dated 27.06.2016 issued by the respondent No.2.

D) Pending hearing and final disposal of this writ petition, to grant interim injunction restraining to the respondent No.4 to officiate as Liquidator with the Karkhana, vide order dated 27.06.2016 issued by the respondent no.2.

E) Pending hearing and final disposal of this writ petition, to direct remove the respondent No.4 from the post of Liquidator with Karkhana and further to the restrain/prohibit to the Liquidator for further works of the Karkhana.”

5. In spite of several opportunities, the learned AGP once again seeks time, inasmuch as, there is no response from the respondent nos.1 to 3.

6. Considering the fact that prima facie by operation of Section 109 of the Act, there would be deemed termination, even if we adjourn the matter, same interim order will have to be passed.

7. Till the next date, the respondent no.4 is restrained from taking any policy decision or from dealing with the property of the society.

8. Stand over to 12/01/2024.