

(2013) 10 BOM CK 0134
In the Bombay High Court
Case No : W.P. No. 4332 of 2013

Udhav Shalikram Geete

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 17-10-2013

Acts Referred:

Citation : (2014) 1 MhLj 879

Hon'ble Judges : Z.A. Haq, J;B.R. Gavai, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Z.A. Haq, J.—Heard the learned Counsel for the parties. Rule. Rule is made returnable forthwith.

2. The petitioner, an elected Director of the Agricultural Produce Market Committee (APMC), has filed this Writ Petition challenging the order dated 12th of August, 2013 issued by the District Deputy Registrar, appointing the Administrator. The submission of the petitioner is that the elections of the APMC had taken place in 2008 and the first meeting of the APMC was held on 18th of July, 2008 and the APMC was constituted for five years as provided u/s 14(3) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (hereinafter referred to as "Act of 1963") and the term of the APMC has come to an end on 17th of July, 2013. The petitioner has stated that he had issued communication dated 8th of July, 2013 to the respondents requesting them to conduct the elections of the Board of Directors. In reply, it was informed that in view of the Notification dated 8th of February, 2013, the term of the APMC was extended for six months from the date of the Notification i.e. from 8th of February, 2013. The petitioner has stated that the Hon'ble Members of the Legislative Assembly of Amravati District had made representation dated 31st of July, 2013 to the Hon'ble Minister Agricultural and Marketing and to the Guardian Minister of Amravati District requesting for appointment of the Administrator on the A.P.M.C. The petitioner has stated that the appointment of the Administrator

on the APMC is illegal, as the extension of six months has to be treated from 18th of July, 2013 and the Administrator could not have been appointed on 12th of August, 2013.

3. Shri Ingole, the learned Advocate for the petitioner, has submitted that the APMC has taken appropriate steps to see that the elections are conducted on time and there is no fault on its part for delay in holding the elections. The learned counsel has relied on the judgment reported in Babasaheb Akat and Others Vs. The State of Maharashtra and Others, and submitted that the appointment of the Administrator straightway is not justified and the respondent-State was under an obligation to exercise its power under the second proviso to section 14(3) of the Act of 1963 and to grant the extension of six months from 18th of July, 2013.

4. Smt. Bharti Dangre, learned Additional Government Pleader, has submitted that claim as made by the petitioner is misconceived. The learned Additional Government Pleader has further submitted that the second proviso to section 14(3) of the Act of 1963 gives discretion to the State Government to extend the term of the APMC if elections are not held for the reasons beyond the control of the members of the APMC. The learned Additional Government Pleader has submitted that above referred proviso does not give any right to the members to continue beyond the term of five years and it does not cast an obligation on the State Government to grant the extension. The learned Additional Government Pleader has submitted that section 15A of the Act of 1963 lays down that notwithstanding anything contained in sub-section 15(3) or any other provisions of the Act, where the term of five years under the proviso to sub-section 14(3) of the members of any Market Committee, has expired, the Director or any Officer not below the rank of the District Deputy Registrar of Cooperative Societies, authorized by him shall direct that all members of the Committee shall, as from the date specified in the order, cease to hold and vacate their offices as members or otherwise; and the Administrator or the Board of Administrators shall be appointed during the period from the date specified in the order up to the day on which the first meeting of the reconstituted Committee after the election is held.

5. The learned Additional Government Pleader has submitted that the provisions of section 15A of the Act of 1963 are mandatory and powers have to be exercised by the Director for appointment of the Administrator notwithstanding anything contained in any other provisions of the Act. In support of the submission, the learned Additional Government Pleader has relied on the judgment reported in Agricultural Produce Market Committee and Others Vs. State of Maharashtra and Others, .

6. We have considered the submissions made on behalf of the respective parties. The right to continue in an elected office is neither a constitutional nor a common law right but it is a statutory right. The petitioner does not have vested right to continue in the office except as provided under the Act of 1963 and the Rules framed thereunder. Section 14(3) of the Act of 1963 prescribes the tenure of the

APMC as five years. The second proviso to section 14(3) of the Act of 1963 gives the discretion to the State Government to extend the term of the APMC where the general elections of members of the Committee could not be held for reasons beyond the control of the Committee before expiry of the term of office of its members. The petitioner cannot claim, as of right, that the State Government should extend the term, inasmuch as, the proviso to Section 14(3) of the Act of 1963 does not cast an obligation on the State Government to extend the term of the APMC after the period of five years. The notification issued on 8th of February, 2013 postponing the elections of the APMC for the period of six months from the date of Notification is not challenged by the petitioner. The order issued by the District Deputy Registrar on 12th of August, 2013 appointing the Administrator is in consonance with the requirements of the provisions of section 15A of the Act of 1963.

7. The submission of the learned Advocate for the petitioner relying on the judgment in the case of Babasaheb Apparao Akat (supra) cannot be accepted. The petitioners in the case of Babasaheb had submitted the proposal for extension of the term of the APMC on the ground that the elections could not be held on time and in the petition before the Court, a prayer was made that the State of Maharashtra and the concerned authority be directed to decide the proposals of the petitioners for grant of extension to the petitioners to act as the members of the APMC till the conclusion of election. In the present case, as observed by us, the petitioner has not prayed for such directions to the respondents for extension of the term of the members of the APMC. The Writ Petition proceeds on the assumption that the postponement of the elections by the Notification dated 8th of February, 2013 automatically extends the term of the members of the APMC, which is unacceptable in law. We find no reason to interfere with the impugned order as it is just and proper and the powers have been rightly exercised by the District Deputy Registrar. In view of this, the writ petition is dismissed. In the circumstances, the parties to bear their own costs.