

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).18603-18605/2007

(From the judgement and order dated 21/12/2005 in WP No.2701/2004 and order dated 12/09/2007 in CA No.2354/2007 in WP No.3078/2007 and order dated 13/09/2007 in WP No.6848/2007 of The HIGH COURT OF BOMBAY AT NAGPUR BENCH)

BAJIRAO GANPATI PATIL & ORS.

Petitioner(s)

VERSUS

RETURNING OFFICER & TAHSILDAR & ORS.ETC.

Respondent(s)

(With appln(s) for c/delay in filing SLP, directions, recalling the Court's order dated 26/09/2007/directions, for permission to array contesting respondent as party, for deletion of respondents, prayer for interim relief and office report)

S.L.P. (C) No...../2007 (CC 9910-9912/2007)

(With appln.(s) for permission to file SLPs and office report)

Date: 03/10/2007 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P.P. NAOLEKAR

HON'BLE MR. JUSTICE D.K. JAIN

For Petitioner(s) Mr. D.A. Dave, Sr. Adv.

in SLP 18603-18605/
2007: Mr. Satyajit A. Desai, Adv.
Mr. Amol N. Suryawanshi, Adv.
Ms. Anagha S. Desai, Adv.

in CC 9910-9912/2007: Mr. Ashok Kumar Srivastav, Sr. Adv.
Ms. Promila, Adv.

For Respondent(s) Mr. Harish N. Salve, Sr. Adv.
Mr. Shyam Divan, Sr. Adv.
Mr. Shivaji M. Jadhav, Adv.
Mr. Himanshu Gupta, Adv.
Mr. Brij Kishor Sah, Adv.
Mr. Rahul Joshi, Adv.
Mr. S.S. Patwardhan, Adv.

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Dr. Abhishek Singhvi, Sr. Adv.
Mr. Amit Bhandari, Adv.
Ms. Promila, Adv.

Mr. M.N. Rao, Sr. Adv.
Mr. S. Thananjayan, Adv.

Mr. S.S. Shinde, Adv.
Ms. Asha G. Nair, Adv.

Mr. Shekhar Napade, Sr. Adv.
Mr. Sunil Kumar Verma, Adv.

UPON hearing counsel the Court made the following
ORDER

I.A. Nos.17-18 in S.L.P. (C) Nos.18603-18605 of 2007:

By these applications, the petitioners have made a prayer for deletion of Respondent Nos.4 to 28 from the array of respondents in the special leave petition filed against the impugned Full Bench judgement dated 21th December, 2005, and deletion of Respondent Nos.4 to 80 from the array of respondents in the special leave petition filed against the order dated 13th September, 2007. The learned counsel for the petitioners submits that he does not want to press these applications and wants to withdraw them. Permission granted. I.A. Nos.17 and 18 stand dismissed as withdrawn.

On 26th September, 2007, the matter was taken up in the mentioning list and the following order was passed:

"Taken on Board.

Permission to file special leave petitions is granted.

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Exemption allowed.

Issue notice on the applications for condonation of delay in filing special leave petitions as also on the special leave petitions.

Until further orders, operation of the impugned order shall remain stayed.

Tag the petitions with S.L.P. (C) Nos.22350-22351 of 2005."

An application has been moved by Respondent No.3 for vacation of the said order, inter alia, on the ground that same had been obtained by concealing certain material facts. It is alleged by learned counsel appearing for the applicant that order dated 3rd May, 2007, passed by the High Court in Writ Petition No.3078 of 2007 in regard to the Kolhapur Agricultural Produce Market Committee directing the Returning Officer to proceed with the election and hold it by 15th of September, 2007; order dated 31st July, 2007 in Writ Petition No.5250 of 2007, wherein bifurcation of the Committee was under challenge and it was dismissed by the High Court and order dated 7th September, 2007, whereby S.L.P. (C) No...../2007 (CC 8181/2007) challenging orders dated 3rd May, 2007 and 31st July, 2007, had been dismissed on merits had neither being mentioned in the list of dates nor were brought to the notice of the court at the time of hearing of the special leave petitions. Learned counsel submits that all these orders have material bearing on the merits of the special leave petitions and had these been brought to the notice of this court, in all probability, interim stay would not have been granted.

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Having heard learned counsel for the parties at some length and perused the order passed in S.L.P. (C) Nos.22350-22351 of 2005, we are of the view that the order

passed on 26th September, 2007, requires modification. Accordingly, we clarify and direct that the stay granted by this Court vide order dated 26th September, 2007, shall be confined to the order passed on 21 st December, 2005, by the Full Bench of the Bombay High Court in Writ Petition No.2701 of 2004. However, by this, it shall not be construed that in future all elections in the Agricultural Produce Market Committees in general shall also remain stayed.

Learned counsel for the Returning Officer has submitted that due to the interim stay, the election process was suspended and, therefore, it would not be possible to hold the election by 4th October, 2007, as directed by the High Court. Since for holding the election, sufficient manpower is required to be mobilized and it would not be possible for the Returning Officer to do so within the short span of time, he prays for extension of time by five days to hold the elections. Accordingly, we direct that elections to the Kolhapur Agricultural Produce Market Committee shall be completed on or before 10th October, 2007.

S.L.P. (C) No...../2007 (CC 9910-9912/2007):

List the matters on 8th October, 2007.

[Alka Dudeja]
Court Master

[Neeru Bala Vij]
Court Master