

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8004/2019

(Arising out of impugned final judgment and order dated 27-02-2019 in CAW No. 196/2019 in WP No.4532/2012 passed by the High Court of Judicature at Bombay, Bench at Nagpur)

BABURAO S/O BANDUJI KUBDE & ANR.

Petitioner(s)

VERSUS

YAVATMAL DISTRICT CENTRAL COOPERATIVE BANK
LIMITED & ORS.

Respondent(s)

Date : 25-11-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Satyajit A.Desai,Adv.
Mr. Kailash S.Narwade,Adv.
Ms. Anagha S. Desai, AOR
Mr. Shobhit Dwivedi,Adv.

For Respondent(s) Mr. Mahabir Singh,Sr.Adv.
Mr. Kishor Ram Lambat,Adv.
Mr. Sachin Pahwa,Adv.
Mr. Amit Kumar,Adv.
For M/S. Lambat And Associates, AOR

Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Anoop Kandari,Adv.

UPON hearing the counsel the Court made the following
O R D E R

With the consent of the parties, the matter is taken
up for final hearing.

The respondent No.1-Yavatmal District Central
Cooperative Bank is governed by the Maharashtra Co-
operative Societies Act, 1960 and the Managing Committee
and the election of the committee is governed by the

Maharashtra Specified Cooperative Societies (Election to Committee) Rules. It is not disputed that the last elections were held in the year 2007 more than twelve years back. Thereafter, the present Board of Directors of respondent No.1 Bank was elected in 2007 for a period of five years. The said period was to expire in 2012. A notification was published by the State Government of Maharashtra whereby the elections of the Cooperative Societies were stayed till 31st July, 2012 on the pretext of situation of drought in the State. The term of the Board of Directors expired in 2012 and it could not have been continued after 30.11.2012 in any case. Respondent No.1-Bank had filed a Writ Petition before the Bombay High Court out of which the present special leave petition arises in which the following prayers had been made:

"A) By writ in the nature of mandamus or any other appropriate writ, order or direction the D.O.Letter dated 31st July, 2012 at Annexure-B extending the term without there being any notification under section 72(1)(b) of the Act and the reasons stated therein of famine are non-existent and, therefore be declared as null and void with direction to the Collector, Yavatmal, Respondent No.6 to the petition, to start the election process forthwith and complete it in view of the provisions of Maharashtra Specified Cooperative Societies (Election to Committee)Rules with a further direction restraining all the respondents from taking over charge of the management till first

meeting of the newly elected Board of Directors is held. The matter may be heard by fixing a calendar giving date for filing reply and in the event of failure in filing reply and interim relief may be granted while issuing rule on the main petition.

A1) By a writ in the nature of mandamus alternatively it be held that proviso to Section 73(b)(1) is applicable and, therefore, by writ in the nature of declaration it be held that the period of managing committee is deemed to have been extended so far as petitioner Bank is concerned till the first meeting of newly constituted committee."

They had also sought for interim relief in terms of the following interim prayers:

"B) By ad interim relief issue the direction to the Collector, Yavatmal, Respondent No.6 to the petition, to start the elections process forthwith and complete it in view of the provisions of Maharashtra Specified Cooperative Societies (Election to Committee) Rules with a further direction restraining all the respondents from taking over charge of the management till first meeting of the newly elected Board of Directors is held.

B1) By ad interim relief by a writ in the nature of mandamus alternatively it be held that proviso to Section 73(b)(1) is applicable and, therefore, by writ in the nature of declaration it be held that the period of managing committee is deemed to have been extended so far as petitioner Bank is concerned till the first meeting of newly constituted committee."

Whereas the impugned prayer in the writ petition was that the Collector, Yavatmal be directed to start the election process forthwith and complete it at the earliest, in the interim prayer, it had been prayed that the members elected may be permitted to continue. The interim prayers were accepted by the High Court vide order dated 28th September, 2012 and confirmed on 6th December, 2012. Therefore, it is under these interim directions that the old society is functioning.

The petitioners herein filed an application before the Nagpur Bench of the Bombay High Court praying that the interim relief be vacated or in the alternative an administrator be appointed to look after the affairs of the society. This application has been rejected and the petitioners herein have been directed to approach the Divisional Joint Registrar and District Deputy Registrar for relief. This order is under challenge before us.

We are constrained to observe that the High Court should not have directed the petitioners to go back to the officials. In view of the interim orders passed by the High Court itself, the officials concerned could not do anything but to obey the orders of the High Court. By sending the petitioners back to the officials the High Court virtually rejected the application of the petitioners.

In a democracy elections must be held within the time prescribed by law. It is only in exceptional circumstances that elections can be delayed. All bodies which are elected by the democratic process must not continue after their term is completed and the rule of law requires that fresh elections should be held. It is surprising that in the present case where the bank itself had approached for directions to hold the elections instead of allowing the writ petition of the bank, interim relief was granted. Be that as it may, we are of the opinion that there is no reason to continue with the interim order any further.

Both parties agree that fresh elections should be held at the earliest. We also feel that elections must be held in accordance with law, as soon as possible.

We are informed that the power to hold election is conferred on respondent Nos. 3 and 4 herein. We, therefore, direct Respondent Nos. 3 and 4 to initiate the electoral process and complete the same before 28th February, 2020.

In view of the above order, nothing further survives in the matter and in the writ petition before the High Court which is disposed of in terms of this order.

The special leave petition stands disposed of in the above terms.

Pending application, if any, shall also stand disposed of.

(ANITA MALHOTRA)
COURT MASTER

(PRADEEP KUMAR)
COURT MASTER