

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2924 OF 2020

1. Ishwar S/o Madhav Patange
Age : 55 Yrs. Occu. Agri.
R/o: Kharbandi, Tq. Newasa,
Dist. Ahmednagar.
2. Shankar S/o Laxman Dane
Age : 53 Yrs. Occu. Agri.
R/o: Warkhed, Tq. Newasa,
Dist. Ahmednagar.
3. Shivaji S/o Gangadhar Mate
Age : 64 Yrs. Occu. Agri.
R/o: Bakupimpalgaon, Tq. Newasa,
Dist. Ahmednagar. ...PETITIONERS

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Co-operation and Textile Department,
Maharashtra State
Mantralaya, Mumbai-32
2. The Commissioner for Co-operation
Maharashtra State, Pune,
Central Building,
Pune-411001
3. The State Co-operative Election
Authority, Maharashtra State, Pune
Old Central Building
Ground Floor, Pune-411 003
4. District Co-operative election officer/
Regional Director of Sugar Ahmednagar
5. The District Deputy Registrar,
Co-operative Societies and District
Co-operative Election Officer
Station Road, Ahmednagar
6. Mula Sahakari Sakhar Karkhana
Ltd Sonai,
Through it's Managing Director,
Tq. Newasa Dist. Ahmednagar ...RESPONDENTS

Shri V.D. Sapkal, Senior Counsel i/by
Shri S.R. Sapkal, Advocate for Petitioners
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V. H. Dighe, Advocate for Respondent Nos. 3 to 5
Shri A.B. Jagtap, Advocate for Respondent No. 6

- AND -

WRIT PETITION NO. 2292 OF 2020

1. Baburdi Ghumat Vividh Karyakari
Seva Sahakari Sanstha Maryadit
Baburdi, Tal. Nagar, District Ahmedangar,
through its Chairman,
Nanda w/o Murlidhar Bhagar,
Age 50 years, Occu. Household and
Agri., R/o Baburdi Ghumat,
Tal. Nagar, Dist. Ahmednagar
 2. Mandve Vividh Karyakari Seva
Sahakari Sanstha Maryadit,
Mandve, Tal. Nagar,
Dist. Ahmedangar
through its Chairman
Balasaheb Rangnath Nimse,
Age 49 yrs. Occu. Agri.,
R/o Mandve, Tal. Nagar,
Dist. Ahmednagar
 3. Baburdi Bend Vividh Karyakari
Seva Sahakari Sanstha Maryadit,
Baburdi Bend, Tal. Nagar,
Dist. Ahmednagar,
through its Chairman,
Ravindra Sarjerao Choubhe,
Age 45 years, Occu. Agri.,
R/o Baburdi Bend, Tal. Nagar,
Dist. Ahmednagar
 4. Walunj Vividh Karyakari Seva Sahakari
Sanstha Maryadit, Walunj,
Tal. Nagar, Dist. Ahmednagar
through its Chairman
Babasaheb Patilba Darekar,
Age 65 years, Occu. Agri.,
R/o Walujm, Tal. Nagar,
Dist. Ahmednagar
- ..PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik
5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar
6. The Ahmednagar District Central
Co-operative Bank Ltd.,
Station Road, Ahmednagar
through its Chief Executive Officer ..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioners

Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2

Shri V. H. Dighe, Advocate for Respondent Nos. 3 to 5

Shri A.B. Jagtap, Advocate for Respondent No. 6

- AND -

WRIT PETITION NO.2642 OF 2020

Mungusgaon Vividh Karyakari
Seva Sahakari Society Ltd.,
Mungusgaon, Tal. Shrigonda,
Dist. Ahmednagar

through its Chairman
Pramod s/o Sominath Ithape,
Age 38 yrs. Occu. Agri.
R/o Mungusgaon, Tal. Shrigonda,
Dist. Ahmednagar ..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune,
Central Building
Pune – 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik
5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar ..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri S.K. Kadam, Advocate for Respondent Nos. 3 to 5

- AND -

WRIT PETITION NO.2681 OF 2020

Suregaon Vividh Karyakari Seva
Sahakari Society Ltd.,
Suregaon, Tal. Shrigonda,
Dist. Ahmednagar,

Through its Chairman,
Rajendra s/o Bhagchand Rode,
Age 45 yrs. Occu. Agri.,
R/o. Suregaon, Tal. Shrigonda,
Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
 2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
 3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
 4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik
 5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar
- ..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent No. 1 and 2
Shri V. H. Dighe, Advocate for Respondent Nos. 3 to 5

- AND -
WRIT PETITION NO.2907 OF 2020

Janai Vividh Karyakari Seva Sahakari
Society Ltd., Shrigonda,
Tal. Shrigonda, Dist. Ahmednagar
through its Chairman

Haridas Namdeo Shirke
Age 52 yrs., Occu. Agri.
R/o. Pedgaon, Tal. Shrigonda,
Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
 2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
 3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
 4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik
 5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar
- ..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioners
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V. H. Dighe, Advocate for Respondent Nos. 3 to 5

- AND -

WRIT PETITION NO.2910 OF 2020

Mata Salvandevi Vividh Karyakari
Seva Sahakari Society Ltd.,
Shrigonda, Taluka Shrigonda,
District Ahmednagar,
through its Chief Promoter,

Active Member & also Managing
Committee Member,
Bapu Haribhau Gore,
Age 48 yrs. Occu. Agri.
R/o Shantai Niwasa,
Behind S.T. Depot, Shrigaonda,
Tal. Shrigonda, Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik
5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar

..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V. H. Dighe, Advocate for Respondent Nos. 3 to 5

- AND -

WRIT PETITION NO.3015 OF 2020

Raje Shiv Chatarpati Vividh Karyakari
Seva Sahakari Society Ltd.,

Khandgaon, Tal. Shrigonda,
Dist. Ahmednagar,
through its Chairman,
Anil Dhondiba Shinde,
Age 49 yrs. Occu. Agri.
R/o Khandgaon, Post Mandavgaon,
Tal. Shrigonda,
Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik
5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar

..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V. H. Dighe, Advocate for Respondent Nos. 3 to 5

- AND -
WRIT PETITION NO.3155 OF 2020

1. Kanakshil Vividh Karyakari
Seva Sahakari Sanstha
Maryadit, Kanakshil
Tal. Khultabad, Dist. Aurangabad,
through its Chairman
Sainath Kashinath Kamthe,
Age 64 yrs. Occu. Agri.
R/o Kanakshil, Post. Bazar Savanti,
Tal.Khultabad, District Aurangabad
 2. Sanjkheda Vividy Karyakari
Seva Sahakari Sanstha Maryadit,
Sanjkheda, Tal. and Dist.
Aurangabad, through its Chairman
Agaji Bajirao Chawali,
Age 75 yrs. Occu. Agri.
R/o. Sanjkheda, Post Gharegaon,
Tal. & Dist. Aurangabad
- ..PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Near Kranti Chowk,
Jalna road, Aurangabad
5. The District Deputy Registrar,
Co-operative Societies and

District Co-operative Election Officer,
Aurangabad

6. The Aurangabad District Central
Co-operative Bank Ltd.,
Aurangabad,
Dr. Rajendraprasad Marg,
Aurangabad 431 005,
through its Managing Director ..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioners
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V. H. Dighe, Advocate for Respondent Nos. 3 to 5
Shri V.N. Upadhye, Advocate for Respondent No. 6

- AND -

WRIT PETITION NO.3504 OF 2020

Ghotavi Vividh Karyakari Seva
Sahakari Society Ltd.,
Ghotavi, Tal. Shrigonda,
Dist. Ahmednagar
Through its Chairman,
Dada s/o Vithal Barguje,
Age 55 yrs. Occu. Agri.
R/o Ghotavi, Tal. Shrigonda,
Dist. Ahmednagar ..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &

District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik

5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar ..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V. H. Dighe, Advocate for Respondent Nos. 3 to 5

AND
WRIT PETITION NO.3499 OF 2020

Dashmi Gauhan Vividh Karyakari
Seva Sahakari Society Ltd.,
Dashmi Gauhan Tal. Nagar,
Dist. Ahmednagar
Through its Chairman
Vijay s/o Manohar Kale,
Age 51 yrs. Occu. Agri.
R/o Dashmi Gauhan, Tal.Nagar
Dist. Ahmednagar ..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &

District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik

5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar ..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri S.K. Kadam, Advocate for Respondent Nos. 3 and 5

- AND -

WRIT PETITION NO.3512 OF 2020

1. Sanjay Raosaheb Kale,
Age : 39 yrs. Occu. Agri.
2. Sanjay Appasaheb Dhamne,
Age : 52 yrs. Occu. Agri.
Both R/o. Saroka Kasar,
Tq. & Dist. Ahmednagar .. PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik

5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar
6. Sarola Kasar Vividh Karyakari
Seva Sahakari Society Ltd.,
Sarola Kasar, Taluka and
District Ahmednagar,
Through its Chairman,
Dadabhau Rambhau Kadus,
Age 60 years, Occu. Agriculture,
R/o Sarola Kasar,
Taluka & District Ahmednagar ..RESPONDENTS

Shri N.V. Gaware, Advocate for Petitioners
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri S.K. Kadam, Advocate for Respondent Nos. 3 and 5

- AND -

WRIT PETITION NO.2983 OF 2020

Nanasaheb Dattatraya Asane,
Age: Major, Occu. Agri.
R/o : Malwadgaon, Tq. Shrirampur,
Dist. Ahmednagar ... PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &

District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik

5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar
 6. Malwadgaon Vividh Karyakari Society,
at Post, Malwadgaon, Tq. Shrirampur,
Dist. Ahmednagar,
Through Its Secretary
- ...RESPONDENTS

Shri A.B. Kale, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V.H. Dighe, Advocate for Respondent Nos. 3 to 5
Shri V.S. Deshmukh, Advocate for Respondent No. 6

- AND -

WRIT PETITION NO. 3008 OF 2020

Jalindar Bhausahab Hole,
Age: Major, Occu. Agri.
R/o : Karegaon, Tq. Shrirampur,
Dist. Ahmednagar

... PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building,
Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &

District Co-operative Election Officer,
Nashik Division, Nashik
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik

5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar
6. Karegaon Vividh Karyakari Society,
at Post, Karegaon, Tq. Shrirampur,
Dist. Ahmednagar,
Through Its Secretary ...RESPONDENTS

Shri A.B. Kale, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V.H. Dighe, Advocate for Respondent Nos. 3 to 5
Shri V.S. Deshmukh, Advocate for Respondent No. 6

- AND -
WRIT PETITION NO.2091 OF 2020

1. Shri Gorakh S/o Atmaram Dhumal,
Age: 40 years, Occu. Agriculture,
R/o : Telgaon, Tq. Dharur,
Dist. Beed
2. Shri Mahipati S/o Ganpati Palkar,
Age: 78 years, Occu. Agriculture,
R/o : Chardhari, Tq. Dharur,
Dist. Beed ... PETITIONERS

VERSUS

1. The State of Maharashtra
Through Principal Secretary,
Cooperation, Textile and Marketing
Department, Mantralaya,
Mumbai 32
2. The State Co-operative Election
Authority, Pune, Dist. Pune.

3. The District Election Authority/
Divisional Joint Registrar,
Cooperative Societies, Latur,
District Latur.
4. The Beed District Central Cooperative
Bank, Beed,
Through its Chief Executive Officer ...RESPONDENTS

Shri P.D. Bachate, Advocate for Petitioners

Shri D.R. Kale, Government Pleader

for Respondent No. 1

Shri S.K. Kadam, Advocate for Respondent Nos. 2 and 3

Shri D.J. Choudhary, Advocate for Respondent No. 4

- AND -

WRIT PETITION NO.2524 OF 2020

Dattatraya s/o. Bhausahab Chitalkar

Age: 41 years, Occu. Agriculture

R/o : Mandve, Tq. Shrirampur,

Dist. Ahmednagar

... PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary for
Co-operation, Marketing and Handloom
Department, Mantralaya,
Mumbai
2. The Maharashtra State Co-operative
Election Authority, Maharashtra State,
Central Building, PUNE.
3. The District Co-operative Election
Authority And the Divisional Joint
Registrar, Co-operative Societies,
Nashik Division, Nashik
4. The Collector, Ahmednagar
District Ahmednagar
5. The Ahmednagar District Central
Co-operative bank Limited
Railway Station Road, Ahmednagar,

District Ahmednagar,
Through its Managing Director ...RESPONDENTS

Shri A.V. Hon, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 4
Shri S.K. Kadam, Advocate for Respondent Nos. 2 and 3
Shri Z.H. Farooqui, Advocate for Respondent No. 5

- AND -

WRIT PETITION NO.2986 OF 2020

1. Bhaskarrao Abasaheb Shinde,
Age: 55 years, Occu. Agri.
R/o : Suregaon (Ganga), Tq. Newaswa,
Dist. Ahmednagar
 2. Babasaheb Gangadhar Agale,
Age: 62 years, Occu. Agri.
R/o : Khamgaon (Shirasgaon), Tq. Newaswa,
Dist. Ahmednagar
 3. Baban Kashinath Dhas,
Age: 65 years, Occu. Agri.
R/o : Yerandgaon, Tq. Shevgaon,
Dist. Ahmednagar
- ...PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya,
Mumbai 32
2. The Commissioner for Co-operation,
Maharashtra State, Pune
Central Building, Pune 411 001
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,

3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik

5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar
Regional Joint Director (Sugar)

6. The Managing Director,
Loknete Marutrao Ghule Patil
Dnyaneshwar Nagar, Post Bhende,
Sakhar Karkhana, Tq. Newasa,
Dist. Ahmednagar

...RESPONDENTS

Shri H.D. Deshmukh, Advocate for Petitioners

Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2

Shri V.H. Dighe, Advocate for Respondent Nos. 3 to 5

Shri A.M. Gaikwad, Advocate for Respondent No. 6

- AND -

WRIT PETITION NO.3127 OF 2020

Khirdi Vividh Karyakari Seva Sahakari
Society Limited, Khirdi, Tq. Shrirampur,
Dist. Ahmednagar,
Through it's Chairman,
Saneshwar s/o Paraji Pawar,
Age: 43 years, Occu: Agril,
R/o: Khirdi, Tq. Shrirampur,
Dist. Ahmednagar

...PETITIONER

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
Co-operation, Marketing and Textile
Department, Mantralaya,
Mumbai 32

2. The Commissioner/Registrar,
Co-operative Societies, Maharashtra

- State, Central Building, Pune-411001
3. The State Co-operative Society Election Authority, Maharashtra State, Pune, Old Central Building, Ground Floor, Pune 411 003
 4. The Divisional Joint Registrar, Co-operative Societies the District Election Officer, Nashik Division, Gruhanirman Bhavan, Ghatkari Chowk, Nashik
 5. The District Deputy Registrar, Co-operative Societies and District Co-operative Election Officer, Station Road, Ahmednagar. ...RESPONDENTS

Shri R.R. Karpe, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V.H. Dighe, Advocate for Respondent Nos. 3 to 5

- AND -
WRIT PETITION NO.3463 OF 2020

1. Ramkishan S/o Kashinath Kakade,
Aged: 69 years, Occu. Agriculture,
Vridheshwar Sahakari Sakhar Karkhana
Ltd., Adinathnagar, Tq. Pathardi,
Dist. Ahmednagar, R/o Dhamangaon,
Tq. Pathardi, Dist. Ahmednagar.
2. Subhash S/o Baburao Tathe,
Aged: 55 years, Occu. Agriculture and
Director of Shri
Vridheshwar Sahakari Sakhar Karkhana
Ltd., Adinathnagar, Tq. Pathardi,
Dist. Ahmednagar, R/o Chitali,
Tq. Pathardi, Dist. Ahmednagar.
3. Pandurang S/o Abaji Khedkar,
Aged: 70 years, Occu. Agriculture and
Director of Shri
Vridheshwar Sahakari Sakhar Karkhana

Ltd., Adinathnagar, Tq. Pathardi,
Dist. Ahmednagar, R/o Bhalgaon,
Tq. Pathardi, Dist. Ahmednagar.

4. Ramdas S/o Yashwantrao Maske,
Aged: 70 years, Occu: Agriculture,
R/o Kasarpimpalgaon, Tq. Pathardi,
Dist. Ahmednagar.
5. Vasant Parasram Bhagat,
Aged: 65 years, Occu: Agriculture,
R/o Kasarpimpalgaon, Tq. Pathardi,
Dist. Ahmednagar.

... PETITIONERS

VERSUS

1. The State of Maharashtra
Through the Secretary to the
Government of Maharashtra in
Co-operation, Marketing and Textile
Department, Mantralaya, Fort,
Mumbai
2. The Commissioner for Co-operation,
and the Registrar of Co-operative
Societies, Maharashtra State, Pune
Central Building, Pune.
3. The State Co-operative Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
3rd Floor, Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik
5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar

6. Shri Vridheshwar Sahakari Sakhar
Karkhana Ltd. Adinathnagar,
Tq. Pathardi, Dist. Ahmednagar,
Through its Managing Director. ...RESPONDENTS

Shri G.B. Rajale, Advocate for Petitioners
Shri D.R. Kale, Government Pleader
for Respondent No. 1
Shri V.H. Dighe, Advocate for Respondent Nos. 2 to 5
Shri R.K. Temkar, Advocate for Respondent No. 6

- AND -
WRIT PETITION NO.3769 OF 2020

Sidheshwarwadi Vividh Karyakari Seva Sahakari
Society Ltd. Sidheshwarwadi, Tal. Partur,
Dist. Ahmednagar,
Through it's Chairman, Babanrao Thakaram
Kaware, Age: 58 years, Occu: Agri.
R/o: Sidheshwarwadi, Tal. Parner,
Dist. Ahmednagar ...PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary,
Co-operation and Textile
Department, Maharashtra State,
Mantralaya, Mumbai 32
2. The Commissioner for
Co-operation, Maharashtra
State, Pune, Central Building,
Pune-411001
3. The State Co-operative Society Election
Authority, Maharashtra State,
Pune, Old Central Building,
Ground Floor, Pune 411 003
4. The Divisional Joint Registrar,
Co-operative Societies &
District Co-operative Election Officer,
Nashik Division, Nashik, 3rd Floor,
Gruha Nirman Bhavan,
Ghatkari Chowk, Nashik

5. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Station Road, Ahmednagar. ...RESPONDENTS

Shri S.P. Salgar, holding for
Ziya H. Farooqui, Advocate for Petitioner
Shri D.R. Kale, Government Pleader
for Respondent Nos. 1 and 2
Shri V.H. Dighe, Advocate for Respondent Nos. 3 to 5

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

**JUDGMENT RESERVED IN WRIT PETITION
NOS. 2924 OF 2020, 2292 OF 2020, 2642
OF 2020, 2681 OF 2020, 2907 OF 2020,
2910 OF 2020, 3015 OF 2020, 3155 OF 2020,
ON : 2nd MARCH, 2020**

**JUDGMENT RESERVED IN WRIT PETITION
NOS. 3504 OF 2020, 3499 OF 2020, 3512
OF 2020 ON : 3rd MARCH, 2020**

**JUDGMENT RESERVED IN WRIT PETITION
NOS. 2983 OF 2020, 3008 OF 2020
ON : 5th MARCH, 2020**

**JUDGMENT RESERVED IN WRIT PETITION
NOS. 2091 OF 2020, 2524 OF 2020
ON : 6th MARCH, 2020**

**JUDGMENT RESERVED IN WRIT PETITION
NOS. 2986 OF 2020, 3127 OF 2020, 3463 OF
2020, 3769 OF 2020 ON : 9th MARCH, 2020**

JUDGMENT DELIVERED ON : 11th MARCH, 2020

JUDGMENT (PER SHRIKANT D. KULKARNI, J.) :

1. Rule. Rule made returnable forthwith. With the consent of the parties, the matters are taken up for final disposal at admission stage.

2. This batch of petitions can be disposed of by common Judgment in view of similar set of facts and involving common question of law.

3. The petitioners are challenging the orders issued by the State of Maharashtra, Department of Co-operation, Marketing and Textile vide No. संकीर्ण ०१२०/प्र.क्र.२४/१३-स dated 27th January, 2020 and संकीर्ण ०१२०/प्र.क्र.२९/१३-स dated 31st January, 2020. It would be convenient to reproduce the Government orders dated 27th January, 2020 and 31st January, 2020, which are in vernacular as under :

...

(१) महाराष्ट्र शासन

क्रमांक : संकीर्ण ०१२०/प्र.क्र.२४/१३-स
सहकार, पणन व वस्त्रोद्योग विभाग,
मंत्रालय विस्तार इमारत, मादाम कामा मार्ग,
हुतात्मा राजगुरु चौक, मुंबई ४०००३२.
दिनांक : २७ जानेवारी, २०२०

आदेश

ज्याअर्थी, राज्यातील नैसर्गिक आपत्तीग्रस्त, अवेळी पाऊसामुळे शेतीचे नुकसान झालेले शेतकरी, बँकांकडून घेतलेल्या कर्जाची परतफेड करू शकले नाहीत. परिणामी शेतकरी थकबाकीदार झाले व त्यांना शेती उत्पादनासाठी नव्याने पीक कर्ज घेण्यात अडचणी निर्माण झाल्या. या पार्श्वभूमीवर राज्य शासनाने दिनांक २७.१२.२०१९ रोजीच्या शासन निर्णयान्वये “महात्मा जोतिराव फुले शेतकरी कर्जमुक्ती योजना २०१९” घोषित करून पीक

कर्ज/पुनर्गठीत/फेर पुनर्गठीत कर्ज खात्यामधील दिनांक ३०. ०९.२०१९ रोजी मुद्दल व व्याजासह थकीत असलेली व परतफेड न झालेली रक्कम रूपये २.०० लाखापर्यंत असल्यास अशा कर्ज खात्यांना कर्जमुक्तीचा लाभ देण्याबाबत निर्णय घेण्यात आला असणे;

ज्याअर्थी, कर्जमुक्ती योजनेची तात्काळ अंमलबजावणी करण्यासाठी पोर्टलवर माहिती अपलोड करणे, बँकांना शेतकऱ्यांची यादी उपलब्ध करून देणे, शेतकऱ्यांच्या यादीची प्रसिध्दी, कर्ज खातेदारांचे आधार प्रमाणिकरण, जिल्हास्तरीय समितीमार्फत तक्रार निवारण इ. कार्यवाही यापुढील टप्प्यामध्ये मोहिम स्वरूपात करावी लागणार आहे. सदर योजनेचा हेतु थकबाकीदार शेतकऱ्यांना कर्जमुक्ती देऊन पुढील खरीप हंगामासाठी कर्ज घेण्यासाठी पात्र करणे असा आहे. त्यामुळे, पुढील हंगामापूर्वी शेतकऱ्यांना कर्जमुक्ती देण्याची कार्यवाही पुर्ण करावी लागणार असल्याने, सहकार विभागाचे जिल्हास्तरीय क्षेत्रिय अधिकारी तसेच, जिल्हाधिकारी व त्यांचे क्षेत्रिय अधिकारी यांचा सक्रिय सहभाग अपेक्षित असून सदर कर्जमाफीच्या कामाचे प्राधान्य विचारात घेऊन सहकार विभागातील बहुतांश अधिकारी योजनेच्या अंमलबजावणीमध्ये व्यस्त असणे;

ज्याअर्थी, राज्यातील ३१ पैकी २२ जिल्हा मध्यवर्ती सहकारी बँका, तर २१२२५ प्राथमिक कृषि सहकारी संस्थांपैकी ८१९४ संस्था माहे जानेवारी, २०२० ते जून, २०२० या संपण्यापूर्वी घेणे आवश्यक आहे व सदर निवडणुक घेण्याची जबाबदारी राज्य सहकारी निवडणुक प्राधिकरणाची आहे. तथापि, उक्त नमुद केल्याप्रमाणे “महात्मा जोतिराव फुले शेतकरी कर्जमुक्ती योजना २०१९” या योजनेच्या अंमलबजावणीमध्ये वर नमुद कामासाठी समांतर पध्दतीने

राबविल्यास योजनेच्या अंमलबजावणीमध्ये व्यत्यय घेण्याची शक्यता निर्माण झाली आहे. संचालक मंडळाची निवडणुक ही वैधानिक जबाबदारी असल्यामुळे कर्जमाफी योजना अंमलबजावणीस विलंब होण्याची शक्यता आहे. असे झाल्यास योजनेचा मुळ हेतु शेतकऱ्यांना पुढील खरीप हंगामासाठी कर्ज घेण्यास पात्र करणे यास बाधा निर्माण होण्याची शक्यता असणे;

त्याअर्थी, महाराष्ट्र सहकारी संस्था अधिनियम, १९६० चे कलम १५७ मधील तरतुदीनुसार शासनास असलेल्या अधिकारात कलम ७३कक मधील तरतुदीस सुट देवून जिल्हा मध्यवर्ती सहकारी बँका व प्राथमिक कृषि सहकारी पतसंस्था या संस्थांच्या निवडणुका ज्या प्रकरणी मा. उच्च/सर्वोच्च न्यायालयाने निवडणुक घेण्याचे आदेशित केले आहे आणि ज्या संस्थांच्या निवडणुक प्रक्रियेत नामनिर्देशन पत्र स्वीकारणे सुरू झालेले आहे, अशा संस्था वगळून राज्यातील जिल्हा मध्यवर्ती सहकारी बँका व प्राथमिक कृषि सहकारी पतसंस्था या संस्थांच्या निवडणुका या आदेशान्वये तीन महिन्यापर्यंत पुढे ढकलण्यात येत आहेत.’’

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(२) महाराष्ट्र शासन

क्रमांक : संकीर्ण ०१२०/प्र.क्र.२९/१३-स
सहकार, पणन व वस्त्रोद्योग विभाग,
मंत्रालय विस्तार इमारत, मादाम कामा मार्ग,
हुतात्मा राजगुरू चौक, मुंबई ४०००३२.
दिनांक : ३१ जानेवारी, २०२०

आदेश

ज्याअर्थी, राज्यातील नैसर्गिक आपत्तीग्रस्त, अवेळी पाऊसामुळे शेतीचे नुकसान झालेले शेतकरी, बँकांकडून

घेतलेल्या कर्जाची परतफेड करू शकले नाहीत. परिणामी शेतकरी थकबाकीदार झाले व त्यांना शेती उत्पादनासाठी नव्याने पीक कर्ज घेण्यात अडचणी निर्माण झाल्या. या पार्श्वभूमीवर राज्य शासनाने दिनांक २७.१२.२०१९ रोजीच्या शासन निर्णयान्वये “महात्मा जोतिराव फुले शेतकरी कर्जमुक्ती योजना २०१९” घोषित करून पीक कर्ज/पुनर्गठीत/फेर पुनर्गठीत कर्ज खात्यामधील दिनांक ३०.०९.२०१९ रोजी मुद्दल व व्याजासह थकीत असलेली व परतफेड न झालेली रक्कम रूपये २.०० लाखापर्यंत असल्यास अशा कर्ज खात्यांना कर्जमुक्तीचा लाभ देण्याबाबत निर्णय घेण्यात आला असणे;

ज्याअर्थी, कर्जमुक्ती योजनेची तात्काळ अंमलबजावणी करण्यासाठी पोर्टलवर माहिती अपलोड करणे, बँकांना शेतकऱ्यांची यादी उपलब्ध करून देणे, शेतकऱ्यांच्या यादीची प्रसिध्दी, कर्ज खातेदारांचे आधार प्रमाणिकरण, जिल्हास्तरीय समितीमार्फत तक्रार निवारण इ. कार्यवाही यापुढील टप्प्यामध्ये मोहिम स्वरूपात करावी लागणार आहे. सदर योजनेचा हेतु थकबाकीदार शेतकऱ्यांना कर्जमुक्ती देऊन पुढील खरीप हंगामासाठी कर्ज घेण्यासाठी पात्र करणे असा आहे. त्यामुळे, पुढील हंगामापूर्वी शेतकऱ्यांना कर्जमुक्ती देण्याची कार्यवाही पूर्ण करावी लागणार असल्याने, सहकार विभागाचे जिल्हास्तरीय क्षेत्रिय अधिकारी तसेच, जिल्हाधिकारी व त्यांचे क्षेत्रिय अधिकारी यांचा सक्रिय सहभाग अपेक्षित असून सदर कर्जमाफीच्या कामाचे प्राधान्य विचारात घेऊन सहकार विभागातील बहुतांश अधिकारी योजनेच्या अंमलबजावणीमध्ये व्यस्त असणे;

ज्याअर्थी, राज्यातील निवडणूकीस पात्र असणाऱ्या “अ”, “ब”, “क” व “ड” या प्रवर्गातील एकूण २२,६८०

इतक्या सहकारी संस्थांची सदर संख्या विचारात घेता त्यांच्या निवडणुका घेण्यासाठी मोठ्या प्रमाणात प्रशिक्षित मनुष्यबळाची आवश्यकता आहे. मात्र महात्मा जोतिराव फुले शेतकरी कर्जमुक्ती योजना २०१९ या योजनेच्या अंमलबजावणीमध्ये सहकार विभागाचे क्षेत्रित अधिकारी व्यस्त राहणार आहेत. यास्तव, सहकारी संस्थांच्या व्यवस्थापन समितीच्या निवडणुका मनुष्यबळाच्या अभावी पार पाडणे शक्य नाही;

ज्याअर्थी, २५० पर्यंत किंवा कमी सदस्य संख्या असलेल्या गृहनिर्माण सहकारी संस्था, यांच्या निवडणुका दि. २९/०२/२०२० पर्यंत पुढे ढकलण्यात आल्या आहेत. तसेच जिल्हा सहकारी मध्यवर्ती बँका व प्राथमिक कृषी सहकारी संस्था या सहकारी संस्थांच्या निवडणुका दि.२७/०१/२०२० रोजीच्या आदेशान्वये पुढील तीन महिने कालावधीकरिता पुढे ढकलण्यात आलेल्या आहेत;

त्याअर्थी, २५० पर्यंत किंवा कमी सदस्य संख्या असलेल्या गृहनिर्माण सहकारी संस्था, जिल्हा सहकारी मध्यवर्ती बँका, प्राथमिक कृषी सहकारी संस्था तसेच ज्या प्रकरणी मा. उच्च / सर्वोच्च न्यायालयाने निवडणूक घेण्याचे आदेशित केले आहे, आणि ज्या संस्थांच्या निवडणूक प्रक्रियेत नामनिर्देशन पत्र स्वीकारणे सुरू झालेले आहे, अशा संस्था वगळून महाराष्ट्र सहकारी संस्था अधिनियम, १९६० चे कलम १५७ मधील तरतुदीनुसार शासनास असलेल्या अधिकारात कलम ७३कक मधील तरतुदीस सुट देवून राज्यातील सहकारी संस्थांच्या व्यवस्थापन समितीच्या निवडणूका या आदेशाच्या दिनांकापासून तीन महिन्यांपर्यंत पुढे ढकलण्यात येत आहेत.’’

....

4. Being aggrieved by the act of State Government with regard to the postponing the elections of District Central Co-

operative Bank Ltd. (hereinafter referred to as “the D.C.C. Bank” for brevity) and so also, village level agricultural credit Co-op. Societies, sugar factories throughout the State of Maharashtra totally, the petitioners have approached this Court by invoking Article 226 of the Constitution of India.

5. We have heard Shri V.D. Sapkal, learned Senior Counsel instructed by Shri S.R. Sapkal, Advocate, Shri N.V. Gaware, Shri A.B. Kale, Shri P.D. Bachate, Shri A.V. Hon, Shri H.D. Deshmukh, Shri R.R. Karpe, Shri G.B. Rajale, Shri S.P. Salgar holding for Shri Ziyaulhaque Farooqui H.F. learned Counsel for Petitioners, Shri D.R. Kale, the learned Government Pleader for Respondent/State, Shri V.H. Dighe, Shri A.B. Jagtap, Shri S.K. Kadam, Shri V.N. Upadhye, Shri D.J. Choudhary and Shri Z.H. Farooqui, Shri A.M. Gaikwad, Shri R.K. Temkar, the learned Counsels for Respondents.

6. It is contended by the petitioners that the Government of Maharashtra, Department of Co-operation, Marketing and Textile, Mantralaya, Mumbai vide impugned orders dated 27.01.2020 and 31.01.2020 postponed the elections of the D.C.C. Bank, Village Level Agricultural Credit Co-operative Societies and Sugar Factories throughout the State of Maharashtra by contravening the provisions of Section with oblique motive. According to the petitioners, the act of respondent No. 1 is illegal, arbitrary and violative of statutory

provisions of the M.C.S. Act, 1960 and so also is *ultra vires* of the provisions of the Constitution of India.

7. Shri V.D. Sapkal, learned Senior Counsel strenuously argued that the respondent No.1/State of Maharashtra in order to stall ongoing election with some oblique motive had issued orders dated 27.01.2020 and 31.01.2020 purportedly under Section 157 and Section 73CC of the M.C.S. Act, 1960 whereby the general elections of D.C.C. Bank and Village Level Agricultural Credit Co-operative Societies/Sugary Factories throughout the State of Maharashtra have been postponed for further period of three months on the ground that "Mahatma Jyotiba Phule Shetkari Karjamukti Yojna 2019" is to be implemented throughout the Maharashtra and the officers would be busy with the said work of Karjamukti Yojna, 2019.

8. Shri Sapkal, learned Senior Counsel submitted that the very invocation of provisions of Section 157 and 73CC of the M.C.S. Act, 1960 and order dated 31.01.2020 is *ex-facie* illegal, arbitrary and amounts to colourable exercise of power by respondent No. 1/State of Maharashtra. The reasons which have been cited in the orders dated 27.01.2020 and 31.01.2020 issued by the State of Maharashtra are *per se*, false and imaginary. According to Shri Sapkal, learned Senior Counsel, the exercise of powers at the

hands of respondent No. 1 is beyond its competence and also beyond the scope of Section 157 and 73CC of the M.C.S. Act, 1960. Shri Sapkal, learned Senior Counsel submitted that no opportunity of hearing was extended to the concerned petitioners before issuing the impugned orders by the State of Maharashtra and it is violative of principles of natural justice.

9. According to Shri Sapkal, the first proviso to Section 157 of the M.C.S. Act, 1960 contemplates that opportunity of hearing must be given to the society to represent their case. But in the present case, no opportunity of hearing was extended to the petitioners and it has caused prejudice. According to Shri Sapkal, learned Senior Counsel, as per Section 73AAA of the M.C.S. Act, 1960, the Committee is to be constituted in accordance with the provisions of M.C.S. Act, 1960 and sub section (3) of Section 73AAA of the M.C.S. Act, 1960 which contemplates that the term of office of the elected members of the Committee and its office bearers shall be five years from the date of elections and the term of office bearers shall be co-terminus with the term of the Committee. As such, the very exercise of powers under Section 157 is contrary to the spirit of Section 157 of the M.C.S. Act, 1960.

10. Shri V.D. Sapkal, learned Senior Counsel further invited our attention to Clause 2 of Article 243/ZJ of the Constitution of

India. Shri Sapkal, learned Senior Counsel submitted that the term of the elected members of Board and its office bearers shall be for five years and term of office bearers shall be co-terminus with the Board. It is constitutional mandate that the term of Managing Committee shall be for five years and it cannot be extended beyond the period of five years in view of Article 243/ZK of the Constitution of India. Shri Sapkal, the learned Senior Counsel Vehemently argued that the orders dated 27.01.2020 and 31.01.2020 are also *ultra vires* in view provisions of Article 243ZJ and 243ZK of the Constitution of India. According to the learned Senior Counsel Shri Sapkal, the petitioners have right to form Society also known as fundamental right as contemplated under Article 19 (1) (c) of the Constitution of India and the Constitution of the Committee has to be in accordance with the constitutional goals and the act of State Legislature. Shri Sapkal, learned Senior Counsel submitted that any act on the part of respondent No. 1 which is contrary or derogatory to the Constitution of India and M.C.S. Act, 1960 is liable to be struck down being *ultra vires* and unconstitutional which infringes the right of citizens under Article 14 of the Constitution of India.

11. According to Shri Sapkal, learned Senior Counsel, scope of exercise of powers at the hands of respondent No. 1 for postponement of elections of Co-operative Societies has been

narrowed down in view of the provisions of Section 73CC of the M.C.S. Act, 1960.

12. The learned Senior Counsel submitted that impugned orders dated 27.01.2020 and 31.01.2020 are illegal, arbitrary and violative of Article 14, 19 (1) (c), 243ZJ and 243ZK of the Constitution of India, so also under Section 73CC and 157 of the M.C.S. Act, 1960. Shri Sapkal, learned Senior Counsel urged to quash and set aside the impugned orders and communications referred above by respondent No. 1 by issuing appropriate writ or directions in the nature of mandamus.

13. Shri Sapkal, learned Senior Counsel has placed his reliance on the following decisions of this Court in support of his argument :-

(i) ***Dattatray Yedu Thombre Vs. The State of Maharashtra and Ors. In Writ Petition No. 10184 of 2019 with connected writ petitions.***

(ii) ***Dnyandeo Mohan Salunke & anr. Vs. State of Maharashtra & Ors. Reported in 2013 (4) Mh.L.J. 785, (Aurangabad Bench).***

14. Shri N.V. Gaware, learned Counsel for the petitioners mixed his tone in the voice of Shri Sapkal, learned Senior Counsel and argued that respondent No. 1/State of Maharashtra has acted in excess of jurisdiction and beyond the scope of Section 157 and

Section 73CC of the M.C.S. Act, 1960. Shri Gaware, learned Counsel for the petitioners submitted that the act of respondent No. 1 postponing the elections of Co-operative Societies and sugar factories by the impugned orders is arbitrary, illegal and liable to be quashed and set aside. He submitted that it is a case of colourable exercise of powers and for some extraneous reasons.

15. The learned Counsel for the petitioners in connected petitions argued on the line and submissions made earlier by Shri V.D. Sapkal, learned Senior Counsel and Shri Gaware, the learned Counsel for the petitioners.

16. Per contra, Shri D.R. Kale, learned Government Pleader for respondent Nos. 1 and 2/State submitted that the State Government has exercised its powers given under section 157 of the M.C.S. Act, 1960 giving exemption to the Co-operative societies from holding elections for three months. As per Section 73CC of the M.C.S. Act, 1960, the State Government is empowered to postpone the election of Co-operative Societies for a period not extending six months at a time.

17. Shri Kale, learned Government Pleader submitted that the State Government has recorded the reasons while issuing orders dated 27.01.2020 and 31.01.2020, for postponement of elections of Co-operative Societies. Shri Kale, learned Government Pleader

submitted that the State Government has declared “Mahatma Jyotiba Phule Shetkari Karjamukti Yojna 2019” by issuing Government Resolution dated 27.12.2019. As such, concerned officers from Revenue Department and Co-operative Department are instructed to implement the scheme within stipulated period. The State Government intends to roll out and finish the entire loan waiver scheme by April, 2020. Shri Kale submitted that it is imperative to deploy the field machinery of Co-operation Department to implement the said scheme and as such, the elections of Co-operative Societies have been postponed for a period of three months. According to Shri Kale, the learned Government Pleader, the said decisions are taken by the State Government in the larger interest of the farmers in the State of Maharashtra.

18. According to Shri Kale, learned Government Pleader, the impugned decisions are taken by the State Government in the interest of farmers and same has not caused any kind of prejudice to the interest of any society. According to Shri Kale, the State Government has power under Section 73CC of the M.C.S. Act, 1960 to postpone the elections and has also power under Section 157 of the M.C.S. Act, 1960 to grant exemption and as such, the orders issued by the State of Maharashtra dated 27.01.2020 and 31.01.2020 are legal, proper and in accordance with law.

19. Having regard to the arguments canvassed by the learned Counsels for the petitioners, the learned Government Pleader for the State and the learned Counsels for the respective respondents, we have studied the Government orders issued by the Department of Co-operation, Marketing and Textile dated 27.01.2020 and 31.01.2020. We have also perused provisions of Section 73(2)AAA, 73CC and Section 157 of the M.C.S. Act, 1960 as well as Article 243ZJ and 243ZK of the Constitution of India.

20. It is noticed by us on perusing the impugned order dated 27.01.2020 and 31.01.2020 that the Department of Co-operation, Marketing and Textile, Mantralaya, Mumbai purportedly seems to have invoked Section 157 and 73CC of the M.C.S. Act, 1960. The learned Counsel for both the sides argued on the aspect of applicability of above said two provisions and the mandate of the Constitution of India.

21. Section 157 of the M.C.S. Act, 1960 reads thus -

157. Power to exempt societies from provisions of Act

The State Government may, by general or special order, exempt any society or class of societies from any of the provisions of this Act, [or of the rules made thereunder,] or may direct that such provisions shall apply to such society or class of societies with such modifications not affecting the substance thereof as may be specified in the order:

Provided that, no order to the prejudice of any society shall be passed, without an opportunity being given to such society to represent its case.

Provided further that, the State Government shall not exempt any society or class of societies from the provisions made under sections 26, 73A, 73AAA, 73B, 73C, 73CA, 73CB, 73E, 75, 76, 78, 78A and 81].

Section 157 empowers the State Government to exempt any society or class of any societies of any of the provisions of this Act. It may direct that such provision shall apply to such society or class of societies with certain modifications subject to the provisions mentioned.

22. Now, coming to Section 73CC of the M.C.S. Act, 1960 on which Government has placed its reliance for granting exemption to the elections of the Co-operative Societies, which reads thus -

Postponement of any Class of Societies in areas of natural calamity/draught etc.: MCS (Amendment) Act, 2015

In following cases, the State Government may postpone elections of such Co-operative Societies Factors under consideration prior to deciding about postponement of elections.

Drought, scarcity, flood, fire, any natural calamity, rainy season, conflicting dates with election programme of State or Parliament Elections, or Local Authority.

A Reasoned Order to be passed by recording opinion for postponement. The postponement of elections of Co-operative Societies for a period not exceeding six months at a time with further extension but not exceeding one year in aggregate.

On studying above said provisions of the M.C.S.Act, 1960, it would be evident that the State Government may postpone elections/election programme of any society or class of societies for the reasons mentioned thereunder. The factors for consideration for postponement of elections are drought, scarcity, flood, fire, any natural calamity, rainy season, conflicting dates with election programme of State or Parliament Elections, or Local Authority.

23. If the reasons assigned in the impugned Government orders dated 27.01.2020 and 31.01.2020 are perused, it would be evident that the State Government has not assigned any reason as mentioned aforesaid. The State Government has assigned the reason for postponement of general elections of D.C.C. Banks, Village Level Agricultural Co-operative Credit Societies and other societies throughout the State of Maharashtra for further period of three months for implementation of "Mahatma Jyotiba Phule Shetkari Karjamukti Yojna 2019" in the State. It is mentioned in the impugned orders that the officers would be busy for implementation of the said Shetkari Karjamukti Yojna 2019. It is the only reason assigned in the impugned orders by the State of Maharashtra for

postponement of general elections of the Co-operative Societies. Certainly, the said reason is not covered under Section 73CC of the M.C.S. Act, 1960. At present, there is no drought-like situation in the State of Maharashtra. No scarcity, no flood, disaster, fire, any natural calamity, which may conflict the dates of election programme. There are no State or Parliament elections ahead in the State of Maharashtra. The reason for postponement of elections of any class of societies given under section 73CC of the M.C.S. Act, 1960 is not cited by the State while postponing general elections of Co-operative Societies. As such, the exercise of postponement of general elections of the Co-operative Societies, D.C.C. Banks, Sugar Factories and Village Level Agricultural Credit Co-operative Societies in the State of Maharashtra for a further period of three months by impugned orders dated 27.01.2020 and 31.01.2020 is not in consonance with provisions of Section 73CC of the M.C.S. Act, 1960. The State Government has sufficient manpower to conduct elections of Co-operative Societies even sparing the officials for implementation of "Mahatma Jyotiba Phule Shetkari Karjamukti Yojna 2019".

It is, therefore, clear that reason assigned in the impugned orders for postponement of general elections of the Co-operative Societies is out of the purview of Section 73CC of the M.C.S. Act, 1960.

24. In case of ***Dnyandeo Mohan Salunke & Anr. Vs. State of Maharashtra & Ors. Reported in 2013 (4) Mh.L.J. 785***, it is held by the Division Bench of this Court as under :-

Maharashtra Co-operative Societies Act, 1960, Secs. 73-G, 73H & 157 – Extension to a committee – Scope of Government Power – Petition for appointment of a Administrator for respondent specified co-operative society under section 73-G of Act whose term has already expired on 26-11-2011 and is continuing on extensions by granting exemptions under section 73 (1-B). Held, sub-section (2-B) of section 73-G provides that where for any reason whatsoever election to members of committee are not held before expiry of term or extended term which can be maximum of one year, members including officers of committee shall cease to hold office on expiry of its extended term and shall be deemed to have vacated office. Further there is mandate of section 73-H(2) that when society ceases to hold office it is responsibility of registrar to take over its management or appoint an Administrator but he shall not include any member of outgoing committee on its committee. Contention that Government in its power under section 157 of Act can protect Committee is not tenable because protection can be extended to society but not to Managing Committee, 2004 (Supp.) Bom.C.R.362. In instant case inspite of extension given to committee it failed to hold fresh elections and it appears that State Government has granted extension to it for indefinite

period which is contrary to proviso to section 73-G (2-B). Grant of extension by Government is illegal. It is responsibility of registrar to take steps and appoint Administrator.

25. In case of ***Dattatray Yedu Thombre Vs. The State of Maharashtra and Ors. Writ Petition No. 10184 of 2019 with connected writ petitions***, it is held by the Division Bench of this Court vide order dated 17.10.2019 to which one of us was party (Justice S.V. Gangapurwala), as under :

Article 243E of the Constitution provides for the duration of the Panchayat. The duration fixed by the Constitution under Article 243E of the Panchayat is five years from the date appointed for its first meeting unless sooner dissolved under any law for the time being in force. The Ordinance impugned does not tamper or interfere with the term of the Panchayat. Article 243 does not prescribe the term of the President and Vice President of the Zilla Parishads and Chairman and Vice Chairman of of the Panchayat Samitis. The term is provided of these persons under the State Legislation under section 243 and 57 of the Act, 1961 respectively. To hold the office of the President and Vice President of the Zilla Parishads or Chairman and Vice Chairman of the Panchayat Samitis is governed by the State Legislation.

26. In case of ***Hanumant Sahakari Dudh Utpadak Sanstha Maryadit & Ors. Vs. State of Maharashtra and Ors. reported in***

2004 (2) Mh.L.J. 1052, it is held by the Division Bench of this Court that the powers vested with the Government for postponement of elections under provisions of M.C.S. Act, 1960 are required to be exercised by the competent authority in accordance with law.

27. Articles 243ZJ and 243ZK of the Constitution of India. Article 243ZJ (2) of the Constitution of India speaks about number and term of members of Board and its office bearers. The term of office of elected members of the Board and its office bearers shall be five years from the date of election and the term of office bearers shall be co-terminus with the term of the Board.

28. Article 243ZK of the Constitution of India relates to election of members of the Board.

29. On going through the aforesaid provisions of the Constitution of India, it mandates that the election of the Board shall be conducted before the expiry of the term of the Board so as to ensure that the newly elected members of the Board assume office immediately on the expiry of term of office of the members of the outgoing Board. The wording of Article 243ZK starts with 'notwithstanding anything contained in any law made by the Legislature of a State'. It speaks about the supremacy of these provisions of Constitution of India over all the State laws. It is mandate of Constitution to hold election of a Board before the expiry

of the term of the Board of Directors of any Class or any Co-operative Societies so that newly elected members of the Board may assume office immediately on the expiry of the term of the office of members of the outgoing board.

30. The Constitution is *suprema lex*, the paramount law of the land and there is no authority, no department or branch of the State, which is above or beyond the Constitution or has powers unfettered and unrestricted by the Constitution. The constitution has devised a structure of power relationship with checks and balances and limits are placed on the powers of every authority of instrumentality under the Constitution. Every organ of the State, be it the executive or the legislature, derives its authority from the Constitution and it has to act within the limits of such authority.

31. The mandate provided under Article 243ZJ of the Constitution of India speaks about the term of the members of the Board and its office bearers. The term of office of elected members of the Board and its office bearers shall be five years from the date of election and the term of office bearers shall be co-terminus with the term of the Board. Provided that the Board may fill a casual vacancy on the Board by nomination out of the same class of members in respect of

which the casual vacancy has arisen, if the term of office of the Board is less than half of its original term.

32. Having regard to the mandate of Article 243ZK of the Constitution of India, it is duty of the State Government to conduct election of the Co-operative Societies in the State before the expiry of the term of the Board of five years so as to ensure that newly elected members of the Board assume office immediately on the expiry of the office of Members of the outgoing Board.

33. Having regard to the above legal position, the impugned orders issued by the State of Maharashtra dated 27.01.2020 and 31.01.2020, do not pass the test of constitutional mandate. The impugned orders issued by the State of Maharashtra dated 27.01.2020 and 31.01.2020 postponing the elections of Co-operative Societies for a further period of three months are ex-facie illegal, arbitrary and violates Article 14, 19 (1) (c), 243ZJ and 243ZK of the Constitution of India and so also Section 73CC and 157 of the M.C.S. Act, 1960. As such, those impugned orders are liable to be struck down.

34. The impugned orders/communications dated 27th January, 2020 bearing No. संकीर्ण ०१२०/प्र.क्र.२४/१३-स and dated 31st January, 2020 bearing No. संकीर्ण ०१२०/प्र.क्र.२९/१३-स issued by respondent No. 1, purportedly under Section 157 and 73CC of M.C.S. Act, 1960

thereby postponing the elections of D.C.C. Banks, Sugar Factories and Village Level Agricultural Credit Co-operative Societies throughout the State for a period of further three months are illegal, arbitrary and *ultra vires* to the constitutional provisions embodied in Article 243ZJ and 243ZK of the Constitution of India and Section 157 and 73CC of M.C.S. Act, 1960, and hence quashed and set aside.

35. The Rule made absolute in above terms.

36. The writ petitions are accordingly disposed of. No order as to costs.

[SHRIKANT D. KULKARNI, J]
JUDGE

[S.V. GANGAPURWALA, J]
JUDGE

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