

A PADMASINGHJI BAJIRAO PATIL AND ORS. ETC. ETC.

v.
STATE OF MAHARASHTRA AND ORS.

SEPTEMBER 16, 1999

B [DR. A.S. ANAND, CJ., S. RAJENDRA BABU AND
R.C. LAHOTI, JJ.]

Maharashtra Co-operative Societies Act, 1960:

C S. 144-T—Election disputes—Order by Commissioner or specified
officer—To be final and conclusive—Provision challenged as there is no
corrective machinery by way of appeal or revision provided against the
order u/s. 144-T, and it is violative of Article 14 of the Constitution—Held,
the provision does not suffer from any vice of arbitrariness—S. 144-T was
D enacted with a view to provide for a specific machinery for adjudication of
election disputes relating to big institutions—It confers only limited powers
for adjudicating election disputes qua specific societies only and there is a
clear nexus with the object sought to be achieved by Chapter XI A of the
Act—Constitution of India, 1950—Article 14.

E *Chapadgaon Vividh Karyakari Seva Sahakari Society Ltd. and Ors., v.
Collector of Ahmednagar and Ors., (1989) Mh. L.J. 872, approved.*

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 12431 of
1996 Etc. Etc.

F From the Judgment and order dated 10.1.96 of the Bombay High Court
in W.P. No. 5759 of 1995.

A.M. Khanwilkar for the Appellants.

G.B. Sathe, for the Respondents.

G The following Order of the Court was delivered:

Delay condoned in SLP(C)No. 14075/99 (CC.5231/96).

H Leave granted in SLP (C) 14075/99 (CC 5231/96) and SLP (C) No. 21615/96.

Challenge to the constitutional validity of Section 144-T of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as the 'Act') failed before the Division Bench of the Bombay High Court and the Writ Petition filed by the petitioner was dismissed vide order dated January 10, 1996. These appeals by special leave put that judgment of the Bombay High Court in issue before us.

Section 144-T of the Act lays down:

"144-T. Disputes relating to elections to be submitted to the Commissioner or other specified officer.—(1) Notwithstanding anything contained in Section 91 or any other provisions of this Act, any dispute relating to an election shall be referred to the Commissioner of the Division in which such election is held or to an officer not below the rank of Additional Commissioner of a Division authorised by the State Government in this behalf (hereinafter in this Section either of them as the context may require is referred to as "the specified Officer")

(2) Such reference may be made by an aggrieved party by presenting an election petition to the specified officer, within a period of two months from the date of declaration of the result of the election;

Provided that, the specified officer may admit any petition after the expiry of that period, if the petitioner satisfies the specified officer that he had sufficient cause for not preferring the petition within the said period.

(3) in exercising the functions conferred on him by or under this Chapter, the specified officer shall have the same powers as are vested in a Court in respect of—

(a) proof of facts by affidavit;

(b) summoning and enforcing the attendance of any person and examining him on oath;

(c) compelling discovery of the production of documents; and

(d) issuing commissions for the examination of witnesses.

A In the case of any such affidavit, an officer appointed by the specified officer in this behalf may administer the oath to the deponent.

B (4) Subject to any rules made by the State Government in this behalf, any such petition shall be heard and disposed of by the specified officer as expeditiously as possible. An order made by the specified officer on such petition shall be final and conclusive and shall not be called in question in any Court.”

C The basic grounds on which the challenge was made to the constitutional validity of the aforesaid provisions were; (a) that there is no corrective machinery by way of appeal or revision provided against the order of the Commissioner under Section 144-T and (b) that it was violative of Article 14 of the Constitution of India.

D From a perusal of the Scheme of the Act, it appears that Section 144-T was enacted with a view to provide for a separate machinery for adjudication of election disputes relating to big institutions. This Section confers only limited powers for adjudicating election disputes qua specific societies only and there is a clear nexus with the object sought to be achieved by Chapter XI A of the Act. In our opinion the provision does not suffer from the vice of arbitrariness or unreasonableness either.

E A Division Bench of the Bombay High Court in *Chapadgaon Vividh Karyakari Seva Sahakari Society Ltd. and Ors. v. Collector of Ahmednagar and Ors.*, (1989) Mh. L.J. 872 considered the constitutional validity of Section 144-T of the Act. The precise arguments raised in the present case were also raised before the High Court in that case. The same were considered at great length and repelled. The Division Bench noticed that the area and field covered by the provisions were distinct and separate and by process of comparative study of distinct and separate provisions. Section 144-T of the Act could not be struck down as violative of Article 14 of the Constitution. It was also opined that the classification made was reasonable and had a clear nexus with the object sought to be achieved by Chapter-XIA of the Act, namely, that the elections be conducted under the control of the Collector.

H The reasoning given by the Bombay High Court in *Chapadgaon Vividh Karyakari Seva Sahakari Society Ltd. and Ors.* (supra) is correct and appeals to us. That judgment of the Division Bench has been relied upon in the

instant case by the High Court. In the view that we have taken, no fault can be found with the impugned judgment of the High Court, repelling the challenge to the constitutional validity of Section 144-T of the Act. A

These appeals have thus no merits and are dismissed. No costs.

R.P.

Appeals dismissed. B