

A A P MAHESH COOPERATIVE URBAN BANK
SHAREHOLDERS WELFARE ASSOCIATION

v.

RAMESH KUMAR BUNG AND ORS.

B (Special Leave Petition (Criminal) No. 3869 of 2021)

JULY 20, 2021

[INDIRA BANERJEE AND V. RAMASUBRAMANIAN, JJ.]

Code of Criminal Procedure, 1973: Grant of interim

- C *protection, challenged – Petitioner filed pre-election writ petition against the proposed elections and when failed to get interim order, filed post-election writ petition and also criminal complaints – Respondent no.1 to 3 filed petitions for quashing the criminal complaints – Pending disposal of criminal complaints, respondent no.1 to 3 were granted interim stay of all further proceedings*
- D *including their arrest before the High Court – On special leave petition by the complainant, held: It was patently an election dispute which was sought to be converted to a criminal case – The facts were so glaring and the background setting so shocking, that High Court correctly found it to be a fit and proper case to grant interim reliefs to Respondents 1-3 –It was completely wrong on the part of the petitioner to contend that the High Court was swayed by the pendency of civil writ proceedings –High Court was perfectly justified in granting interim protection to Respondents 1 to 3 and in ensuring that the supremacy of the ballot is not sabotaged by the authority of the police.*
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F **Dismissing the SLPs, the Court**

HELD: *It was patently an election dispute which was sought to be converted to a criminal case. More often than not election disputes are fought on different turfs, such as polling booths, police stations and court rooms. Sometimes, persons who raise*

- G *these disputes manage to camouflage their real motive by words clothed in high moral fiber and strong legal content. But unfortunately, the petitioner could not do it successfully in this case, as the election disputes came to the court first before the petitioner could fall back upon allegations of loan fraud. Fortunately, the High Court saw through the game. The facts are*
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so glaring and the background setting so shocking, that the High Court correctly found it to be a fit and proper case to grant interim reliefs to Respondents 1-3. It is completely wrong on the part of the petitioner to contend that the High Court was swayed by the pendency of civil writ proceedings. The High Court actually took note of the manner in which the color of the entire proceedings changed from February 2020 to February 2021 and it is in that background that the Judge took note of the pendency of civil proceedings and the overlapping of allegations. The High Court was perfectly justified in granting interim protection to the Respondents 1 to 3 and in ensuring that the supremacy of the ballot is not sabotaged by the authority of the police. [Paras 20, 25, 27][863-F-H; 864-A; 865-C-D, F]

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State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335 : [1990] 3 Suppl. SCR 259 – relied on.

Mohd. Allauddin Khan v. State of Bihar & Ors (2019) 6 SCC 107 : [2019] 5 SCR 876; *K. Jagdish v. Udaya Kumar GS* (2020) 14 SCC 552; *N.N. Global Mercantile Pvt. Ltd. v. Indo Unique Flame Ltd.* (2021) SCC Online SC 13 – held inapplicable.

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Sheonandan Paswan v. State of Bihar (1987) 1 SCC 288 : [1987] 1 SCR 702 23; *Neelamika Infrastructure Pvt. Ltd. v. State of Maharashtra & Others* (2021) SCC Online SC 315; *Skoda Auto Volkswagen India Pvt. Ltd. v. State of U.P.* (2020) SCC Online SC 988 – referred to.

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<u>Case Law Reference</u>		
[2019] 5 SCR 876	held inapplicable	Para 9(ii)
(2020) 14 SCC 552	held inapplicable	Para 9(ii)
[1990] 3 Suppl. SCR 259	relied on	Para 23
[1987] 1 SCR 702	referred to	Para 23

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CRIMINAL APPELLATE JURISDICTION: Special Leave Petition (Criminal) No. 3869 of 2021

From the Judgment and Order dated 27.04.2021 of the High Court of Telangana at Hyderabad in IA Nos. 1 of 2021 in Crl. P No. 2371 of 2021.

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- A With
Special Leave (Criminal) No. 3875 of 2021.
Dil Jit Singh Ahluwalia, Malak Manish Bhatt, Ms. Neeha Nagpal,
H. Rajesh, Angad Ahluwalia, Advs. for the Petitioner.
Sidarth Luthra, S. Niranjan Reddy, Sr. Advs., Raavi Venkata
B Yogesh, Asif Ahmed, Ms. Snigdha Singh, Vishnu Tellapragada, Advs.
for the Respondents.
The Judgment of the Court was delivered by
V. RAMASUBRAMANIAN, J.
- C 1. Challenging an order passed by the High Court for the State of
Telangana in two interlocutory applications granting stay of all further
proceedings including the arrest of the Respondents 1 to 3 herein
(petitioners before the High Court), pending two main petitions for quashing
the criminal complaints in Crime Nos. 218 and 222 of 2021 of Banjara
Hills Police Station, Hyderabad, the *de facto* complainant, has come up
D with these Special Leave Petitions.
- E 2. We have heard Shri Dil Jit Singh Ahluwalia, learned counsel
for the petitioner and Mr. Siddharth Luthra and Mr. Niranjan Reddy,
learned senior counsel appearing for the Respondent Nos. 1 to 3 herein.
- F 3. The petitioner herein filed two complaints on the file of the III
Additional Chief Metropolitan Magistrate at Hyderabad against the
Respondents 1 to 3 herein on 19.02.2021. The learned Magistrate passed
an order under Section 156(3) of the Code of Criminal Procedure,
directing the police to register cases and take up investigation, pursuant
to which, the Police registered two First Information Reports (FIR for
short) in Crime Nos. 218 and 222 of 2021 respectively on 12.03.2021
and 13.03.2021.
- G 4. The Respondents 1 to 3 herein who were the accused in those
two complaints were described in those two complaints respectively as
(i) Presently Chairman and erstwhile Senior Vice Chairman; *(ii)* Managing
Director and CEO; and *(iii)* Presently Vice Chairman and erstwhile
Chairman of A.P. Mahesh Cooperative Urban Bank. The offences
complained of by the petitioner against the Respondents 1 to 3 herein
were under Sections 409, 420, 467, 468, 471 and 477A read with 120B
IPC. It is necessary to take note at this stage that the Cooperative Bank
involved is actually a multi- state cooperative society governed by the
Multi-State Cooperative Societies Act, 2002.
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5. Immediately after the registration of the complaints, the Respondent Nos. 1 to 3 herein filed two petitions in Criminal Petition Nos. 2370 and 2371 of 2021 under Section 482 of the Code seeking to quash the criminal complaints. Pending disposal of the criminal complaints, the Respondents 1 to 3 herein sought interim stay of all further proceedings including their arrest, in FIR Nos. 218 and 222 of 2021.

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6. The applications for stay in I.A. Nos. 1 and 1 of 2021 were hotly contested by the petitioner herein, as the petitioner was arrayed as the second respondent in the quash petitions.

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7. After hearing the Respondents 1 to 3 herein (persons accused) and the petitioner herein (*de facto* complainant), the High Court passed a reasoned order on 27.04.2021 granting stay of all further proceedings in both the complaints. It is against the said order that the petitioner has come up with the above SLPs.

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8. Briefly and broadly, the reasons provided by the learned Judge of the High Court for granting stay of further proceedings in the complaints are as follows:-

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- (i) That while one of the two complaints relates to ‘loan fraud’, the other relates to ‘voter fraud’;
- (ii) That the term of office of the Board of Directors of the Cooperative Bank expired in April, 2020 and the election process that was set in motion in March, 2020 culminated in the holding of elections on 20.12.2020;
- (iii) That there was a huge acrimony surrounding the elections, leading to the filing of a batch of writ petitions both before and after the conduct of elections;
- (iv) That there was an over-lapping of the allegations relating to ‘loan fraud’ and ‘voter fraud’ in the writ petitions also, challenging or supporting the election process;
- (v) That in the said batch of writ petitions, another learned Judge of the same High Court had passed a common order on 08.01.2021, directing the results of the election to be declared and the newly elected Board to take charge but directing the newly elected Directors not to take policy decisions until further orders;
- (vi) That even before the registration of the FIRs in March, 2021 the police issued a notice under Section 91 Cr.PC to

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- A the Manager of the Bank asking him to preserve the CCTV footage of a particular period, which was clearly in violation of the mandate of law; and
- (vii) That the allegations of ‘voter fraud’ and ‘loan fraud’ are inter-related to the issues raised in the writ petitions and that therefore further proceedings in the criminal complaints are liable to be stayed.
- B 9. Assailing the said order of the learned Judge, it was contended by Mr. Ahluwalia, learned counsel for petitioner:-
- C (i) That the High Court should not have stayed further proceedings, when on a plain reading of the complaints, cognizable offences are *prima facie* made out, especially in the teeth of the law laid down by this Court in *Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra & Others*¹ and *Skoda Auto Volkswagen India Pvt. Ltd. vs. State of U.P.*²;
- D (ii) That the impugned order is clearly contrary to the decisions of this Court in *Mohd. Allauddin Khan vs. State of Bihar & Ors.*³ and *K. Jagdish vs. Udaya Kumar GS*⁴ in as much as it holds the pendency of civil writ petitions relating to voter fraud, as having any bearing upon the criminal complaints; and
- E (iii) That the High Court was in error in thinking that some of the allegations pertained to disputes arbitrable under Section 84 of Multi-State Cooperative Societies Act, 2002 and that such a view is in the teeth of the decision of this Court in *N.N. Global Mercantile Pvt. Ltd. vs. Indo Unique Flame Ltd.*⁵
- F 10. Mr. Ahluwalia, learned counsel for the petitioner took us through all the documents including the pleadings in the writ petitions, the interim order passed in the writ petitions, the various complaints made to the
- G police as well as the Reserve Bank of India and the way the State treated those complaints. He also drew our attention to various passages

¹ (2021) SCC Online SC 315

² (2020) SCC Online SC 988

³ (2019) 6 SCC 107

⁴ (2020) 14 SCC 552

H ⁵ (2021) SCC Online SC 13

in the decisions of this Court in *Neeharika* (supra) and made a passionate appeal that heavens will certainly fall if the stay granted by the High Court is not vacated. A

11. In response, Messrs. Siddharth Luthra and Niranjan Reddy, learned senior counsel appearing for respondents 1 to 3 argued:-

- (i) That normally this Court would not interfere with an interim order passed by the High Court when the main matter is pending adjudication before the High Court; B
- (ii) That what is taken exception to in *Neeharika* (supra) is the tendency of courts to pass innocuous orders, not to take coercive steps and that too without assigning any reasons; C and
- (iii) That in the case on hand the High Court had more justifiable reasons than one to grant a stay and such reasons are also recorded by the learned Judge and that the tendency to foist criminal complaints at the time of elections can be taken note of by courts whenever a challenge is made to the initiation of the prosecution. D

12. We have considered the rival submissions and also gone through pleadings and documents. Before we proceed to consider the rival contentions, it is necessary to take note of the sequence of events that preceded the lodging of the FIRs, as they throw some light on the first principle of Criminal Law that “*witnesses may lie, but circumstances may not*”. The sequence is as follows:- E

- (i) The term of office of the erstwhile Board of Directors of the Cooperative Bank was to expire in April, 2020 and hence a Returning Officer was appointed in February, 2020. An election notification was issued on 18.03.2020 but it was withdrawn after COVID- 19 struck; F
- (ii) A final voters list was issued on 17.11.2020 followed by a fresh election notification on 24.11.2020;
- (iii) The 1st respondent herein was the Senior Vice Chairman and the 3rd respondent herein was the Chairman in the erstwhile Board of Directors. The 2nd respondent was the Managing Director and CEO; G

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- A (iv) Immediately after the election notification dated 24.11.2020 was issued, the petitioner herein filed a writ petition on 30.11.2020 in W.P. No. 21795 of 2020, praying for a declaration that the proposed conduct of elections based on a bogus voters list dated 17.11.2020 was illegal and contrary to the provisions of the Multi-State Cooperative Societies Act, 2002, as well as certain provisions of the Banking Regulation Act, on account of the illegalities committed by the then Board of Directors. Pending their Writ Petition No. 21795 of 2020, the petitioner herein sought two interim reliefs in I.A. Nos. 1 and 2 of 2020, respectively for
- B (i) the conduct of a thorough investigation with the help of police/investigation agencies and to bring the culprits before law; and (ii) stay of operation of the bogus voters list.
- C (v) Though the aforesaid writ petition was filed on 30.11.2020, the elections were held as scheduled on 20.12.2020. The counting of votes began on 21.12.2020, but half-way through, the Returning Officer decided to stop the counting of votes, for reasons not decipherable now and in any case not necessary for the present dispute;
- D (vi) Therefore, few more writ petitions came to be filed by certain individuals including the 1st Respondent herein. The details of those writ petitions are as follows:-

	W.P.No.	Filed By	Prayer Made
F	23849/2020	Srinivas Asawa	Challenging the action of the Returning Officer in stopping the process of counting of votes and seeking a direction to declare the results
G	23853/202	Ramesh Kumar Bung (1 st RR)	-do-
	23869/2020	Shrikant Inani	-do-
H	23976/2020	Shaligram Dhoot and Mala Dhoot	Challenging the action of the Returning Officer in conducting the elections in an arbitrary manner and seeking fresh elections

- (vii) The applications praying for interim relief in all the aforesaid writ petitions were taken up together by another learned Judge of the High Court. After hearing elaborate arguments, the learned Judge passed a common order dated 08.01.2021 in all the Interim Applications in those writ petitions. The operative portion of the said order reads as follows:-
- “(i) I.A. No. 1 of 2020 in W.P.No. 23853, I.A. No. 1 of 2020 in W.P. No. 23869 and I.A. No. 1 of 2020 in W.P. No. 23849 of 2020 are ordered and the Returning Officer is directed to announce the result of the election held on 20.12.2020;
- ii) in I.A. No. 1 of 2020 in W.P. No. 21795 of 2020, issue notice, returnable by 02.02.2020;
- iii) I.A. No. 2 of 2020 in W.P. No. 21795 of 2020 is filed praying to stay the operation of bogus voters list dated 17.11.2020. for the reasons stated above, petitioner is not entitled to the relief sought in the interlocutory Application I.A. No. 2 of 2020 in W.P. No. 21795 of 2020 is dismissed;
- iv) In I.A. No. 1 of 2020 in W.P.No. 23976 of 2020 petitioners are praying to suspend the declaration of results of the election. For the reasons stated above, petitioners are not entitled to the relief sought in the Interlocutory Application. I.A.No.1 of 2020 in W.P. No. 23976 of 2020 is dismissed;
- v) I.A. No. 2 of 2020 in W.P. No. 23976 of 2020 is filed to direct the 4th respondent Bank to conduct re- election to the posts of Directors. Unless the Court holds that the election process undertaken by the Returning Officer is vitiated, Court cannot direct re-election. Therefore, prayer sought in this Interlocutory Application cannot be granted at this stage. I.A. No. 2 of 2020 in W.P. No. 21976 of 2020 is dismissed;
- vi) Until further orders, the newly elected Directors are directed not to take policy decisions affecting the affairs of the society and the bank, including dealing with the funds of the society except for attending to day to day needs of the Society and the Bank and payment of salaries and allowances of the staff.”

- A (viii) Challenging one portion of the common order dated 08.01.2021 forbidding the newly elected directors from taking any policy decisions, the Management of the Bank filed two writ appeals in W.A. No. 21 and 22 of 2021. Upon being informed that the writ petitions were listed for hearing on 09.02.2021, the Division bench disposed of the writ appeals by an order dated 21.01.2021, granting opportunity to the Management of the Bank to move an appropriate application before the learned Judge seeking necessary clarification;
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- C (ix) Pursuant to the aforesaid order of the Division Bench, the 2nd Respondent moved applications for clarification, but later chose to withdraw the same;
- D (x) On 02.01.2021 and 03.01.2021, (a few days before the learned Judge passed the common interim order in the writ petitions), the petitioner Association claims to have sent by post, a complaint to the police;
- E (xi) Thereafter, on 22.01.2021, the petitioner admittedly moved the Hon'ble Minister for Agriculture, Marketing and Cooperation, Government of Telangana, with a petition regarding the inaction on the part of the police on the complaints allegedly sent by post on 02.01.2021 and 03.01.2021. On the petition so given by the petitioner herein, the Hon'ble Minister issued a direction to the Commissioner of Police on 22.01.2021 to the following effect:-

"Enclosed are the complaints wherein serious allegations are made of commission of cognizable offences. Kindly get both the FIRs registered and investigation be carried out immediately. Copies of FIRs be forwarded to Government within two days."
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- G (xii) On 03.02.2021, the petitioner herein filed a fresh writ petition in W.P. No. 2724 of 2021 with the following main and interim prayers:-

"MAIN PRAYER:

In light of the extraordinary facts and circumstances above, this Hon'ble Court may graciously be pleased to pass a
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writ of mandamus or an order(s)/ direction(s) of the nature A
of mandamus:

- (i) Directing Respondent No. 2 to suspend the Board of Directors of Respondent 5 Bank and appoint an administrator (as has also been recommended by Respondent No. 4 to Respondent No. 2 vide letter No. 6392/ Coop-I/A2/2020 dated 23.12.20) in view of the serious allegations of inter alia large-scale money siphoning, fraud, falsification of documents and forging of records done by Respondent No. 7 and Respondent No. 8, in conspiracy with Respondent No. 6, which acts are gravely prejudicial to the interest of both the Society as well as its members, contrary to the Multi State Cooperative Societies Act, 2002 and Bye laws of Respondent No. 5, for which cognizable offences Respondent No. 4 has directed Commissioner of Police, Hyderabad to register two FIRs and carry out investigation immediately; D
- (ii) Directing Respondent No. 3 to carry out a forensic audit of the bank as recommended vide letter No. 6392/Coop-I/ A2/2020 dated 23.12.20 of Respondent No. 4 to Respondent No. 2, which has informedly been recommended onward by Respondent No. 2 to Respondent No. 3; E
- (iii) Directing Respondent No. 3 for removal of Respondent No. 6 as the MD & CEO of Respondent No. 5 Bank in view of the serious allegations against him of inter alia large-scale money siphoning, frauds, falsification of documents, forging of records of Respondent No. 5 Bank, done in conspiracy with Respondent Nos. 7 and 8; F
- (iv) pass any other orders/directions deemed just and reasonable to protect the interests of thousands of small investors of the Bank in the facts and circumstances of the case. G

INTERIM PRAYERS: For the reasons stated hereinabove, pending disposal of the writ petition, the Petitioner herein prays that this Hon'ble Court, in light of the extra-ordinary facts and circumstances above, may graciously be pleased to: H

- A (i) ad interim suspend the Boards of Directors of Respondent No. 5 bank, appoint a Retired Supreme Court/High Court Judge as an administrator of Respondent No. 5, during the pendency of the writ petition or Respondent No. 2 acting upon representation No. 6392/Coop-I/A2/2020 dated 23.12.20 forwarded by Respondent No. 4 to Respondent No. 2 or representation of Petitioner dated 17.01.21 to Respondent No. 3, whichever is earlier, so as to secure the proper management of the Bank and to prevent causing irreparable harm to the interest of the small depositors of the Petitioner- association, in view of the serious allegations of large-scale money siphoning, fraud, falsification of documents, forging of records of Respondent No. 5, by Respondent No. 6 in conspiracy with Respondent No. 7 and Respondent No. 8, which criminal offences of serious fraud are under police investigation; or in the alternative, suspend Respondent No. 6 and appoint a retired Managing Director of any Public Sector Undertaking Bank as an ad interim MD and CEO of the Respondents No. 5 bank, until Respondent No. 2 has acted upon the Petitioner's representation dated 17.01.21 or during the pendency of this petition, whichever is earlier; and
- E (ii) until further orders direct that the newly elected Directors to not to take any policy decisions affecting the affairs of the society and the bank, including dealing with the funds of the society except for attending to the day to day needs of the Society and the Bank and payment of salaries and allowances to the staff, as already directed by this Hon'ble Court vide order dated 08.01.21 in CWP No. 21795/2020 filed by the Petitioner, which is sub judice; and pass any other orders/directions deemed just and reasonable to protect the interests of thousands of small investors of the Bank in the facts and circumstances of the case."
- G (xiii) On 05.02.2021 the High Court ordered notice before admission in W.P. No. 2724 of 2021 but did not grant any interim order;
- H (xiv) By coincidence or otherwise, the Deputy Registrar of Cooperative Societies, who was nominated to be the

Returning Officer for the conduct of the elections, was also issued with a charge memo on the very same day namely 03.02.2021, the date on which the petitioner filed their second writ petition in W.P. No. 2725 of 2021. Contending that the charge memo was the product of the handiwork of certain disgruntled elements, the Returning Officer filed a writ petition in W.P. No. 3679 of 2021. On 22.02.2021, the High Court granted interim stay of further proceedings pursuant to the charge memo;

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- (xv) In the meantime, the petitioner lodged two complaints on the file of the III Additional Chief Metropolitan Magistrate on 19.02.2021, one of them revolving around allegations about the grant of loans and the other revolving around allegations relating to voter fraud.
- (xvi) The learned Magistrate passed an order under Section 156(3) of the Code, pursuant to which, the police registered an FIR bearing No.218 of 2021 on 12.03.2021 and an FIR bearing No.222 of 2021 on 13.03.2021;
- (xvii) Praying for quashing of these two complaints, the Respondents 1 to 3 herein filed Criminal Petition Nos. 2370 and 2371 of 2021. The Respondents 1 to 3 impleaded the petitioner herein as 2nd Respondent in those quash petitions. According to the petitioner, the learned Judge heard arguments in the petitions for interim stay pending the quash petitions and reserved orders on 23.03.2021. It is claimed by the petitioner that thereafter they filed counter affidavits to the criminal petitions on 01.04.2021. It is further claimed by the petitioner that thereafter they also filed a memo on 15.04.2021 enclosing a copy of the judgment of this Court in *Neeharika* (supra) dated 13.04.2021. However, the learned Judge passed a common order granting stay of further proceedings in both the quash petitions, on 27.04.2021. Therefore, the petitioner has come up with the above SLPs.

13. The above sequence of events would show that the petitioner herein who was admittedly registered as an Association only in the year 2019 (as per the averments in Para 2 of W.P.No.21795 of 2020), fired their first salvo, only against the proposed elections, by filing a writ petition

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- A on 30.11.2020. After failing to get any interim order preventing the Returning Officer from proceeding with the election, the petitioner indulged in a multipronged attack, by sending police complaints by post on 02.01.2021 and 03.01.2021, then moving the Hon'ble Minister and getting a direction from him to the Commissioner of Police on 22.01.2021,
- B thereafter moving a post-election writ petition in Writ petition No.2724 of 2021 to prevent the newly elected Board from taking charge and then filing private complaints before the III Additional Metropolitan Magistrate on 19.02.2021 and getting an order under Section 156(3) of the Code leading to the registration of the FIRs. The complaints lodged by the petitioner Association, contained allegations relating to the period
- C 2016-2019 and 2020, though the association itself was registered only in 2019.

14. It is of interest to note that the petitioner Association which lawfully came into existence by registering itself as an Association under the relevant law only in 2019, started off only with a grievance relating
- D to the elections and the creation of the post of Chairman Emeritus, at the beginning. It appears that the petitioner Association moved a writ petition way back in February, 2020 in W.P. No. 3687 of 2020 expressing an apprehension that elections will not be conducted fairly. But a learned Judge of the High Court dismissed the writ petition by an order dated 20.02.2020. As against the said order, the petitioner filed a writ appeal in W.A. No. 154 of 2020 which is stated to be pending.

15. The petitioner has made a passing reference in Paragraph 3 of their writ petition W.P. No. 21795 of 2020, to the above writ appeal W.A. No.153 of 2020, which even according to them, related only to an election dispute.
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16. Similarly, the petitioner has made a passing reference to another writ appeal in W.A.No.141 of 2020 in Para 3 of their writ petition in W.P.No.21795 of 2020. This, according to the petitioner Association related to the conferment of the title of Chairman Emeritus on the 1st Respondent herein. The background facts relating to this writ appeal, G are not disclosed by the petitioner fully in their writ petition.

17. Therefore, it is obvious that the petitioner started a dispute first against the conferment of the title of Chairman Emeritus on the 1st Respondent and then they raised issues with regard to the proposed elections, first in a writ petition filed in February, 2020 and then in a writ H petition filed in November, 2020. It is only thereafter that the allegations

relating to loan fraud were raised by the petitioner Association. Apparently, the petitioner had the blessings of the powers that be, which is why a direction was issued on 22.01.2021 by the Hon'ble Minister, to the Commissioner of Police to register the complaints and report to the Government.

18. What is important to note, is the fact that in I.A.No.1 of 2020 in W.P.No.21975 of 2020 the petitioner had prayed for a direction to Respondents 1 to 4 therein (namely the State of Telangana, Central Registrar, the Returning Officer and the Management of the Bank) to conduct a thorough investigation with the help of the police/investigation agencies. The learned Judge who heard this I.A. along with other applications in the connected writ petitions, merely ordered (on 08.01.2021), notice returnable by 02.02.2021 in the said application.

19. In the next writ petition W.P.No.2724 of 2021 filed by the petitioner on 03.02.2021 (after the declaration of results pursuant to the order of the High Court dated 08.01.2021), the petitioner again made a prayer for interim relief to suspend the elected Board on the ground that allegations of large scale money siphoning, fraud and falsification and forging of documents are under police investigation. On the date on which W.P.No.2724 of 2021 was filed namely 03.02.2021, no FIR was pending, but the petitioner was emboldened to make such a statement in their writ petition, on account of the endorsement that they were able to secure from the Hon'ble Minister on 22.01.2021. It is only after failing to secure any interim order even in the second writ petition that the private complaints were filed by the petitioner before the Magistrate on 19.02.2021.

20. Therefore, it was patently an election dispute which was sought to be converted to a criminal case. More often than not election disputes are fought on different turfs, such as polling booths, police stations and court rooms. Sometimes, persons who raise these disputes manage to camouflage their real motive by words clothed in high moral fiber and strong legal content. But unfortunately, the petitioner could not do it successfully in this case, as the election disputes came to the court first before the petitioner could fall back upon allegations of loan fraud. Fortunately, the High Court saw through the game. This is why the High Court in its impugned order, granted the extraordinary relief of stay of further proceedings including the arrest of Respondents 1 to 3 herein. The facts are so glaring and the background setting so shocking, that the

- A High Court correctly found it to be a fit and proper case to grant interim reliefs to Respondents 1-3 herein.

21. Having seen the factual aspects, let us now deal with the three questions of law on which the learned counsel for the petitioner sought to raise a high pitch.

- B 22. As rightly pointed out by the learned senior counsel appearing for Respondents 1 to 3, *Neeharika* (supra) certainly allowed space for the High Court to pass an interim order of the nature impugned herein, "*in exceptional cases with caution and circumspection, giving brief reasons*". What is frowned upon in *Neeharika* (supra) is the tendency of the courts to pass blanket, cryptic, laconic, non-speaking orders reading "*no coercive steps shall be adopted*". In Paragraph 60 of the Report in *Neeharika* (supra), this Court recognized that there may be allegations of abuse of process of law, converting a civil dispute into a criminal dispute, with a view to pressurize the accused. In the order impugned in these petitions, the High Court has given elaborate reasons as to how the allegations of bank fraud were developed during the proceedings concerning allegations of election fraud. Therefore, the impugned order cannot be said to be bad in the light of *Neeharika* principles.

- E 23. In fact, *Neeharika* reiterates the parameters laid down in the celebrated decision in *State of Haryana vs. Bhajan Lal*⁶. One of the cardinal principles evolved in *Bhajan Lal* (supra) found in paragraph 102 (7) reads as follows:

- F "where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge"

- G In paragraph 37 of the decision in *Neeharika*, the above passage from *Bhajan Lal* is extracted. In fact *Bhajan Lal* (supra) took note of the view expressed by Bhagwati, C.J. in *Sheonandan Paswan vs. State of Bihar*⁷ to the effect "that a criminal prosecution, if otherwise justifiable and based upon adequate evidence, does not become vitiated on account of malafides or political vendetta of the first informant or complainant." Yet *Bhajan Lal* (supra) laid down seven

H ⁶ 1992 Supp (1) SCC 335

⁷ (1987) 1 SCC 288

principles in paragraph 102, the last which we extracted above. The seven principles enunciated in paragraph 102 of *Bhajan Lal* (a two-member Bench) are actually quoted with approval in *Neeharika* (a three-member Bench).

24. In fact, one of the interim prayers sought by the petitioner in the civil writ proceedings is for the conduct of a forensic audit. The said prayer is pending consideration. Allegations of the nature projected by the petitioner cannot be taken for their face value without a forensic audit and the court cannot go by the *ipse dixit* of the petitioner.

25. It is completely wrong on the part of the petitioner to contend that the High Court was swayed by the pendency of civil writ proceedings. The High Court actually took note of the manner in which the color of the entire proceedings changed from February 2020 to February 2021 and it is in that background that the learned Judge took note of the pendency of civil proceedings and the overlapping of allegations. Therefore, the petitioner cannot press into service the ratio in *Mohd. Allauddin Khan* (supra) and *K. Jagdish* (supra).

26. Even the decision in *N.N. Global Mercantile Pvt. Ltd.* (supra) will not go the rescue of the petitioner since the reference in the impugned order to Section 84 of the Multi-state cooperative Societies Act, 2002 is only for the limited purpose of dealing with the allegations relating to admission of members.

27. Therefore, we are of the considered view that the High Court was perfectly justified in granting interim protection to the Respondents 1 to 3 herein and in ensuring that the supremacy of the ballot is not sabotaged by the authority of the police. Hence the SLPs are dismissed. Consequently the applications for stay are dismissed and the stay earlier granted is vacated. The vacate stay petitions are closed in view of the dismissal of the stay applications.