

IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 2073 OF 2015

Bhikan Dashrath Chandel ... Petitioner

VERSUS

State of Maharashtra & others ... Respondents

.....
Mr. R.V. Gore, Advocate for petitioner
Mr. V.G. Shelke, A.G.P. for respondent Nos. 1 to 3 / State
Mr. C.R. Thorat , Advocate for respondent Nos. 4 to 13
.....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 24th FEBRUARY, 2015

PER COURT :

1. I have heard Shri R.V. Gore, learned Advocate for the petitioner, learned A.G.P. on behalf of respondent Nos. 1, 2 and 3 and Shri C.R. Thorat, Advocate on behalf of respondent Nos. 4 to 13.

2. Issue is as regards rejection of the nomination papers of respondent Nos. 4 to 13, which have been allowed after they preferred an appeal to the Assistant Registrar, Cooperative Societies, Gangapur in Appeal No. 7 of 2015.

3. The election of Takli Vividh Karyakari Seva Sahakari Sanstha Ltd., Takli, Tq. Gangapur, Dist. Aurangabad is scheduled on 25-02-2015 as per the election programme declared on 17-01-2015. It is informed that after the polling on 25-02-2015 is over, it would be followed by counting of votes and declaration of results.

4. This Court has already taken a view in Writ Petition No. 545 of 2015 decided on 05-02-2015 in the matter of *Shriram S/o Mukundrao Korde Vs. The State of Maharashtra & others*. Paragraph Nos. 20, 21 and 22 of the said judgment read as under :-

“20 The Division Bench of this Court at Nagpur has adopted a similar view in Writ Petition No. 3781 of 2014 and companion matters in its order dated 03-12-2014. So also, the Division Bench of this Court (Aurangabad Bench) in the matter of *Manik Baburao Kale Vs. The State of Maharashtra and others in Writ petition No. 11202 of 2014 with Civil Application No. 296 of 2015 and Writ Petition 7171 of 2014* decided on 21-01-2015 has disposed off the petition and has declined to cause any interference in the ongoing election process.

21. As such, this petition is disposed off without causing any interference in the impugned orders. However, it needs mention that I have not considered the petition on its merits. Similarly I have not taken into account the contentions of the respondents so as to draw any inference or conclusion on their merits. I do not intend to cause any interference in the ongoing election process as I hold that disputed and contentious issue can be gone into by a competent Court under Rule 78 of 2014 Rules.

22. I have not drawn any conclusions either in favour or against any of the litigating sides. The contentions and averments set out by the rival sides are kept open for the competent authority under section 91 of the Maharashtra Cooperative Societies Act, 1960 read with Rule 78 of 2014 Rules to be considered on their own merits, in the event the petitioner or any other member of the society or aggrieved person prefers to lodge an election petition.

5. Similarly, the learned Division Bench of this Court (**Coram : - R.M. Borde and Sunil P. Deshmukh, JJ**) has delivered an order on **13.02.2015 in Writ Petition No.1753/2015** in the matter of *Maroti Ganpatrao Shinde vs. State of Maharashtra and others*, as under:-

“Since process of election has commenced and today is the date for declaring final list of contesting candidates, in view judgment of the Supreme Court in the matter of “Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and Another V. State of Maharashtra and Others” reported in (2001) 8 SCC 509, no interference is called for in the present writ petition. In view of this, writ petition stands disposed of keeping open option for the petitioner to raise challenge to the election in accordance with provisions of Maharashtra Co-operative Societies Act.”

6. In the light of the above, this petition is disposed of without interfering in the impugned order. However, the petitioner shall be at liberty to avail of the remedy under Section 91 of the Maharashtra Cooperative Societies Act, read with Rule 78 of the

2014 Rules for assailing the impugned order, as well as the result of the election to the Takli Vividh Karyakari Seva Sahakari Sanstha Ltd., Takli, Tq. Gangapur, Dist. Aurangabad.

7. Since I have not dealt with the merits of the petition , all contentions of the litigating sides are kept open to be considered in the proceedings if preferred by the petitioner under Section 91 of the Maharashtra Cooperative Societies Act, 1960 and Rule 78 of the 2014 Rules.

(**RAVINDRA V. GHUGE, J.**)