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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3015 OF 2015

Balwant Harishchandra Jadhav & Another

PETITIONERS

VERSUS

The State of Maharashtra & others

RESPONDENTS

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Mr. A. N. Irpatgire, Advocate for the petitioners

Mr. V. G. Shelke, AGP for respondent State

Mr. V. D. Hon, Sr. Advocate i/b Mr. A.V.Hon, Advocate for R-5

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 18th MARCH, 2015

ORAL ORDER :

1. The petition has been moved against order dated 9th March, 2015 passed by respondent No.4 – returning officer for elections to the Board of Directors of respondent No.6 - *Manjara Shetkari Sahakari Sakhar Karkhana Ltd., Latur.*

2. The petitioners objected to the nomination of respondent No.5, since he happens to be a Director of Jagruti Sugar and Allied Industries Limited, a company registered under the Companies Act, having its registered office at Latur, contending

that said company is engaged in business of manufacturing and sale of sugar and allied products, which is similar to the business of respondent No. 6 *Karkhana*. Area of operation of respondent No.6 *Karkhana* is Latur district and the registered office of the company of which respondent No.5 is the director, is within the area of operation of respondent No. 6 *Karkhana*. According to the petitioners, having regard to aforesaid, since the company is engaged in similar business in the area of operation of respondent No. 6 *Karkhana*, respondent No.5 stands disqualified under section 73 CA (1) (v) of the Maharashtra Cooperative Societies Act, for being elected as committee member of respondent No. 6 *Karkhana*.

3. Respondent No.4 turned down the objection of the petitioners. He has considered that respondent No.5 is not contesting elections of respondent No. 6 *Karkhana* in his personal capacity, but as a representative of a co-operative society, namely *Jagruti Pragati Bij Utpadak Sahakari Sanstha* which is a constituent member of *Karkhana*, and as such, has filed nomination pursuant to bye-law No. 26 (c). It is referred to that the company is doing business outside the area of operation of respondent No.6 *Karkhana* and has been given certificate of no objection for the same. It is further being referred to that the

company is doing its business not within the area of operation of respondent No.6 *Karkhana* and as such, it would not be proper to consider that business is being done within the area of operation of respondent No.6 *Karkhana*, for the reason that registered office is situated in Latur. The objection, as such, had been turned down.

4. Learned advocate for the petitioner purports to rely upon decision dated 7th July, 2011 in writ petition No. 5672 of 2010 in case of "*Assistant Provident Fund Commissioner V. A.C.C. Nihan Castings Limited*" by Nagpur Bench of this Court, in order to support his contention that business carried on by respondent No.5 shall be deemed to be from the registered office of the company. However, looking at the facts of the case and the situation therein, said decision would not carry forward case for the petitioner in the circumstances, as are involved in the present case. Said case was dealing with Employees Provident Fund Act with reference to specific provisions.

5. Taking into account aforesaid and that the contentions of the petitioners are in respect of factual position, which are disputed by the respondents, it would not be proper for this Court to cause interference in the election process, in its

discretionary powers. Writ petition, as such, stands rejected. However, it is open for the petitioners to avail of the remedies as may be available in law at appropriate occasion, stage etc. All contentions of the petitioners are kept open.

[SUNIL P. DESHMUKH, J.]

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