

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4437 OF 2015

SANJAY MACHINDRANATH NIKAM
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Sandeep B. RajeBhosale
AGP for Respondents: Mrs. A.V. Gondhalekar
.....

**CORAM : R. M. BORDE AND
V. K. JADHAV, JJ.**

DATED : 21st APRIL, 2015

P.C. :-

1. The petitioner is praying for issuance of directions to the respondents to accept nomination of the petitioner as representative of Vaijapur Taluka Sahakari Kharedi Vikri Sangh for the purpose of elections to Maharashtra State Co-operative Marketing Federation Limited. The petitioner is also seeking directions to respondent Nos.2 to 8 to consider the representations filed by him on 12.3.2015 and 17.3.2015.

2. It is not a matter of dispute that in a meeting called for nominating the representative on behalf of society for election to the federal society the name of one Kailas Ramrao Patil was suggested. A resolution to that effect has been passed in the meeting dated

12.3.2015 and the same came to be forwarded to the Election Officer for nominating the name of delegate on behalf of the society. The petitioner contends that the resolution so adopted in the meeting of Vaijapur Taluka Sahakari Kharedi Vikri Sangh is illegal and the name of nominee has been forwarded without observing proper procedure. The petitioner contends that, in fact, he was required to be nominated as a nominee on behalf of the society.

3. The validity of resolution has not been assailed before the appropriate authority, as provided under the provisions of Maharashtra Co-operative Societies Act, 1960. The petitioner however, is making a request to the Returning Officer to consider his claim for being nominated on behalf of primary society and include his name in the electoral roll. It must be noted that the request made by the petitioner for inclusion of his name in the electoral roll as a nominee on behalf of primary society to the Returning Officer is not within contemplation of Rules 10 and 11 of the Election Rules. The direction, as requested by the petitioner in the instant petition, does not deserve to be granted. It is always open for the petitioner to raise challenge to the resolution adopted by the society, which according to the petitioner, has been passed without observance of proper procedure prescribed under law and is illegal.

4. Counsel appearing for the petitioner relies on the judgment in the matter of Pundlik vs. State of Maharashtra and others, reported in 2005 (4) Mah. L.R. (S.C.) 268 to contend that the High Court need to call interference in the matter. However, the facts of the said case were totally different and ratio laid down therein not applicable to the facts and circumstances of this case. The petitioner has also placed reliance on the judgment in the matter of Udhav Vishnupant Patil vs. State of Maharashtra, reported in 2007 (3) LJSOFT 47, the judgment in the matter of Dalsing Shamsing Rajput vs. State of Maharashtra and others, reported in 2006 (3) Mh.L.J. 592, the judgment in the matter of Chandrakant Madhav Patole and Anr vs. State of Maharashtra and Ors reported in 2010 (1) AIR BOM R. 427 and in the matter of Dinkar Uttamrao Patil and Anr vs. State of Maharashtra and ors. reported in 2010 (5) Mh.L.J. 637. However, all these judgments are lay down different propositions and are of little help to the petitioner. In our view, the petition is devoid of any substance and hence, stands rejected.

(V. K. JADHAV, J.)

(R. M. BORDE, J.)

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