

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

WRIT PETITION NO. 4224 OF 2015

Rajesh Babulal Sancheti,
Age: 43 years, occu. Business,
R/o Marwadi Galli, Tq. Vaijapur,
Tq. Vaijapur, Dist. Aurangabad ...PETITIONER

versus

1. The State of Maharashtra,
Through The District Deputy
Registrar, Co-Operative Societies
Aurangabad.
2. The Returning Officer,
Vardhaman Nagari Sahakari Patsanstha
Ltd., Vaijapur, Dist. Aurangabad
And
Assistant Registrar, Co-operative
Societies, Tq. Vaijapur, Dist. Aurangabad
3. Vardhaman Nagari Sahakari Patsanstha
Ltd., Vaijapur, Tq. Vaijapur, Dist.
Aurangabad, through its Manager.
4. Surendra S/o Badarmal Sancheti,
Age: 51 years, occu. Business,
R/o Marwadi Galli, Vaijapur,
Tq. Vaijapur, Dist. Aurangabad. ...RESPONDENTS

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Mr. K.J. Surywanshi , Advocate for Petitioner
Mr. V.G. Shelke, A.G.P. for respondents No. 1 and 2.
Mr. A.D. Kasliwal, Advocate for respondent No. 3
Mr. N.D. Sonwane, Advocate for respondent No. 4 - Caveator.

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 15th APRIL, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of learned counsel for the parties.
2. The petitioner challenges order dated 10-04-2015 in appeal directing acceptance of nomination of respondent No. 4 in the election to the Board of Director of respondent No. 3 - *Vardhaman Nagari Sahakari Patsanstha Ltd., Vaijapur, Taluka Vaijapur Dist. Aurangabad.*
3. Learned counsel for petitioner submits that respondent No. 4 is a pigmy agent of respondent No. 3 - *Vardhaman Nagari Sahakari Patsanstha Ltd., Vaijapur, Ta. Vaijapur, Dist. Aurangabad* and as such having regard to section 73 CA (1) (vi) of the Maharashtra Co-Operative Societies Act, 1960(For short the "MCS Act"), respondent No. 4 is disqualified not only being a salaried person from contesting election but also as defaulter.
4. Learned counsel for petitioner relies on the judgment of the division bench of this court in the case of *Pundalik Kadhav Vs. District Deputy Registrar, Co-Operative Societies Chandrapur and others* reported in 1991 C.T.J. 546 . In the cited case, the division bench has dealt with disqualification being incurred by the director on account him being defaulter covered under the then subsisting section 73-FF (1) of the MCS Act.

5. On the other hand, Mr. Sonwane, learned counsel appearing for respondent No. 4 refers to decision of the division bench of this court in the case of *Murlidhar Bhaulal Malu Vs. Sudhakar Honaji Patil and another*, reported in 1987(3) Bom. C.R.550 and submits that the division bench was dealing with section 73-FF (1) (I) (c) which is *pari materia* with present section 73CA (1) (vi) of the MCS Act. In said case, the division bench appears to have considered that the words "any society" appearing in clause (vi) of sub-section (1) of Section 73CA of the MCS Act is used in restricted sense and reference to the same shall be construed to mean "society" in which elections have been held.

6. Looking at that the facts of the present case are in close proximity with those in citation relied on, on behalf of respondent No. 4, and at this stage, order accepting nomination of respondent No. 4 would seldom be liable to be interfered with.

7. Writ Petition, as such, stands dismissed. Rule stands discharged.

8. However, it would be open for the petitioner, if he is aggrieved by election of respondent No. 4 to challenge the same in an election petition on the grounds including those agitated before this court in writ petition.

Sd/-
(**SUNIL P. DESHMUKH, J.)**