

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

WRIT PETITION NO. 4338 OF 2015

Balaji Ramrao Desai
Age: 54 years, Occu: Agri.
R/o Chuwada, Tq. Purna,
Dist. Parbhani.

...PETITIONER

versus

1. The State of Maharashtra,
Through its Secretary,
Co-operation & Textile Department,
Mantralaya, Mumbai-32.
2. The Divisional Joint Registrar,
Co-operative Societies, Aurangabad
Division Aurangabad.
3. The District Deputy Registrar,
Co-operative Societies, Parbhani,
District Parbhani.
4. The Maharashtra State
Co-operative Election Authority,
Central administrative building,
Shivajinagar Pune.
5. The Returning Officer,
Parbhani District Central Co-operative
Bank Ltd. Parbhani and Deputy Collector,
(Land Acquisition) Parbhani,
Tq. & Dist. Parbhani.
6. Marotrao Narayanrao Pisal,
Age: 58 years, Occu: Agri.
R/o Kawalgaon, Tq. Purna,
Dist. Parbhani.
7. Bhagwan Mahadeo Vasmatar,
Age: 62 years, Occu. Agril.,
R/o Pimpalgaon Sarangi,
Ta.Purna, Dist. Parbhani.

...RESPONDENTS

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Mr. S.B. Ghatol Patil , Advocate for Petitioner
Mrs.S.G. Chincholkar, A.G.P. For respondents No.1 to 5
Mr. A.S. Deshpande, Advocate for respondent No. 6
Mr. Mr. Sonwane, Advocate for respondent No. 7
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CORAM : SUNIL P. DESHMUKH, J.

DATED : 21st APRIL, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of learned counsel for the parties.

2. The dispute is in respect of signature of seconder, namely, one Mr. Bhagwan Madhadeorao Vasmathkar. Respondent No. 6 had filed nomination containing signature of one Bhagwan Wasmathkar as seconder to his nomination. The petitioner, who is a contesting candidate, had lodged an objection before election officer disputing that said Bhagwan Wasmathkar had ever seconded nomination of respondent No. 6 and that the nomination form does not bear signature of said Bhagwanrao. It further appears that respondent No. 7 had also filed an application supporting the claim of petitioner, purportedly contending that his signatures have been made behind his back. Respondent No. 6 of-course had denied allegations and contended that nomination form of petitioner bears signature of respondent No. 7. Election officer overruled the objections and

accepted nomination of respondent No. 6.

3. Before this court, learned counsel appearing for petitioner as well as respondent No. 6 have advanced vehement submissions. Both parties purport to take extreme stands. While it is being contended by the petitioner that since respondent No. 7 himself has denied signature, it was incumbent for election officer to consider objection objectively. Pursuant to provisions under rule 25 sub-rule 2(d) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 the nomination was liable to be rejected. Whereas Mr. Deshpande, learned counsel appearing for respondent No. 6 asserts that signature on the nomination form of petitioner is of respondent No. 7 and that for obvious reasons he is trying to resile from the same and that he is not averse to scrutiny and investigation by this court. Learned counsel for respondent No. 7 also supports petitioner.

4. In the face of aforesaid, position clearly emerges that parties dispute correctness and veracity of contentions on either side. Whether nomination form bears signature of respondent No. 7 or not is a question of fact. In view of that disputed factual aspects are concerned, I am not inclined to interfere with order passed by the election officer.

5. The petition, as such, is not being entertained, and stands dismissed, leaving it open to the petitioner to raise all issues before appropriate forum in appropriate proceedings, including in an election petition. Rule stands discharged.

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

MTK