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

**BENCH AT AURANGABAD**

**WRIT PETITION NO.4349/2015**

Shivraj Bhaurao Pawar.

...Petitioner..

**Versus**

The State of Maharashtra & others.

...Respondents...

.....

Shri V.D. Salunke, Advocate for petitioner.

Smt.S.G. Chincholkar, AGP for respondent nos.1 to 3.

Shri K.J. Suryawanshi, Advocate for respondent no.4.

Shri D.J. Choudhary, Advocate for respondent no.5.

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**CORAM: SUNIL P. DESHMUKH, J.**

**DATE: 24.04.2015**

**ORDER :**

1] Heard learned counsel for the parties.

2] After hearing the parties, it appears that the main allegation against respondent no.5 that he is incapacitated to contest the elections being covered by disqualification u/s 73-CA (1)(f)(i) of the Maharashtra Cooperative Societies Act, 1960, on two grounds. Firstly, he being the Director of Ambika Cooperative Sugar Factory and secondly that said sugar factory being in arrears of dues of Maharashtra State Cooperative Bank

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i.e. NDCC and MSC Bank. It transpires that respondent no.5 is contesting the elections of NDCC Bank not in the capacity as a representative of Ambika Sugar Factory but he is making representation on behalf of Primary Agricultural Credit Cooperative Society, Kuntoor. There does not appear to be much dispute that said primary society is not a defaulter. The dispute which has been filed by MSC Bank is under adjudication and no final decision has come out as yet. As such the consideration that has weighed with the Election Officer at the stage of scrutiny on the basis of *prima facie* evidence made available with him by which he has inferred that respondent no.5 has not incurred disqualification. Looking at the position as has been considered by the Election Officer and the summary nature of inquiry at the stage of scrutiny required, it cannot be said that Election Officer has been in any error. I am thus not inclined to entertain the petition. The writ petition as such is not being considered and is rejected. No order as to costs. However, it is open for the petitioner to take appropriate proceedings at appropriate stage questioning the nomination of respondent no.5 on the

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basis of grounds as have been raised in present petition including in an election petition.

3] The observations made hereinabove shall not influence the decision making authorities in the matters being decided on merits.

**(SUNIL P. DESHMUKH, J.)**