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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4510 OF 2015

Badrinath Rajaram Sable

PETITIONER

VERSUS

Taluka Co-operative Election Officer, & others

RESPONDENTS

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Mr. B. V. Thombre, Advocate for the petitioner

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

Mr. A. B. Kharosekar, Advocate for respondent No.2 and 3

Mr. R V. Dasalkar, Advocate for respondent No.4

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 27th APRIL, 2015

ORDER :

1. The petition has been moved aggrieved by overruling of objection taken by the petitioner to nomination of respondent No.4 on the ground that respondent No.4 is a defaulter, based on an application for execution of award dated 9th June, 2003 as appearing from the documents annexed to the writ petition. It is further allegation that the scrutiny, according to the scheduled programme, should have taken place at 11.30, however it was preponed and carried out at 11.00 am on 13th April, 2015. Additionally it is alleged that the affidavit has been filed by respondent No.4 after the scrutiny.

2. Respondent election officer has submitted affidavit in reply referring to that respondent No.4 had on affidavit stated that he is not a defaulter and he is not liable to pay any debt to any society, nor has he been in arrears of any society. The returning officer has further denied that the scrutiny has taken place before the scheduled time. It is also denied that respondent No.4 has submitted affidavit after the scrutiny.

3. Mr. Dasalakar, learned advocate appearing for respondent No.4 states that the award amount had already been paid and the award was satisfied way back in 2012.

4. In view of aforesaid position, the petition involves disputed questions of fact. The election officer has gone by documents, as they appeared at the stage of scrutiny. A deeper probe at that stage is not expected from the election officer. Under the circumstances, I am not inclined to entertain the writ petition and as such, the writ petition stands rejected. This, however, would not preclude the petitioner from taking recourse to appropriate proceedings before appropriate forum at appropriate stage, including an election petition.

[SUNIL P. DESHMUKH, J.]